

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

Case No. 17-20632

Hon. Stephen J. Murphy, III

D-1 NOEL EISLEY

D-2 TERRY KOVAC

D-4 FELIPE DOMINGUEZ-MEIJA

D-6 ERIC JAMES ROBINSON,

Defendants.

SENTENCINGS

BEFORE THE HONORABLE STEPHEN J. MURPHY, III
United States District Judge
Theodore Levin United States Courthouse
231 West Lafayette Boulevard
Detroit, Michigan 48226
Tuesday, July 17, 2018

APPEARANCES:

For the Plaintiff

United States of America:

APRIL NICOLE RUSSO

KEVIN MULCAHY

PHILIP A. ROSS

LESLIE W. FISHER

United States Attorney's Office

211 W. Fort Street

Suite 2001

Detroit, Michigan 48226

313-226-9129

For the Defendant

D-1 Noel Eisley:

MARGARET S. RABEN

Gurewitz & Raben

333 W. Fort Street

Suite 1400

Detroit, Michigan 48226-6613

313-628-4708

(Appearances continued next page)

1 APPEARANCES: Continued

2 For the Defendant RICHARD D. KORN
3 D-2 Terry Kovac: 645 Griswold
Suite 1717
4 Detroit, Michigan 48226
313-223-1000

5 For the Defendant MARK A. SATAWA
6 D-4 Felipe Satawa Law, PLLC
Dominguez-Meija: 26777 Central Park Blvd.
Suite 300
7 Southfield, Michigan 48076

8 For the Defendant CHARLES C. HAYES
9 D-6 Eric James Robinson: Hayes Ruemmele LLC
141 East Washington Street
Suite 225
10 Indianapolis, Indiana 46204

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Linda M. Cavanagh, CSR-0131, RDR, RMR, CRR, CRC
Official Court Reporter
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12

1 Detroit, Michigan

2 Tuesday, July 17, 2018

3 — — —

4 (Proceedings commenced at 9:27 a.m., all parties
5 present)

6 THE CLERK: Court now calls Case No. 17-20632, United
7 States of America versus Noel Eisley, et al.

8 Counsel, please state your appearances for the
9 record.

10 MS. RUSSO: Good morning, Your Honor. April Russo
11 and Kevin Mulcahy on behalf of the United States. Also with us
12 is Leslie Fisher, trial attorney from Washington, D.C., here
13 today, and Philip Ross also from our office, Your Honor.

14 THE COURT: Good morning.

15 MR. ROSS: Good morning, Your Honor.

16 THE COURT: Okay. All right. And we will start with
17 D-1 and just go down the line.

18 MS. RABEN: Good morning, Your Honor. Margaret Raben
19 on behalf of D-1, Noel Eisley, who sits in front of me.

20 THE COURT: Okay. Good.

21 MR. KORN: Good morning, Your Honor. Richard Korn
22 appearing on behalf of Terry Kovac who is present in the
23 courtroom and is sitting in front of me.

24 THE COURT: Okay.

25 MR. SATAWA: Good morning, Your Honor. If it please

1 this Honorable Court, Mark Satawa on behalf of Felipe
2 Dominguez-Meija.

3 THE COURT: Okay. Good morning.

4 MR. PLOTKIN: Good morning, Your Honor. Sanford
5 Plotkin appearing with Bret Massey.

6 MS. DWYER: Your Honor, good morning. Lisa Dwyer
7 appearing on behalf of William Phillips.

8 MR. HAYES: Good morning, Your Honor. Charles Hayes
9 here on behalf of Eric Robinson.

10 THE COURT: Okay. Everybody may be seated.

11 And the record should reflect that all six defendants
12 are in the courtroom, they're here with their counsel, and the
13 counsel and the defendants are seated in the jury box given the
14 fact that we have six defendants and only three seats at the
15 counsel table.

16 Need a quick minute. Let's be in recess for about
17 two seconds.

18 (Brief pause)

19 THE COURT: Okay. Back in session. All right. So I
20 would ask the government to state how -- how you wish to
21 proceed. It seems to me that we have six individual defendants
22 and obviously I'm going to do individual sentencings. It would
23 not seem appropriate to me to call Mr. Eisley's case and go
24 through the usual sentence and hear from victims and then do
25 that again with D-2, D-3 and D-4, et cetera because the victim

1 statements would seem to be cumulative.

2 It would also seem to me that forfeiture and things
3 of that nature, which would apply across the board, should be
4 addressed en masse, if you will, for purposes of efficiency.

5 And then it would seem to me that we would hear --
6 have hearings on the objections to the Pre-Sentence Report, the
7 guideline computations and the allocution and sentencing on
8 each individual defendant.

9 But that's just my -- my thought. If you have a
10 different thought, I'd be glad to entertain it, but if you
11 don't, that's how I'd like to proceed.

12 MS. RUSSO: Your Honor, that is pretty much how the
13 government had thought that this hearing would go. What we'd
14 like to do is have all the victim impact statements, which are
15 the same for each of these defendants, and then incorporate
16 those statements into each of their individual sentencing
17 hearings after the victims are all done making their
18 statements, Your Honor, and we've read those statements that
19 victims requested be read.

20 With respect to forfeiture, I agree that that's going
21 to apply to each defendant. However, of course, each
22 individual defendant has their own individual devices that have
23 been forfeited and the U.S. --

24 THE COURT: But most -- sorry to interrupt. Most of
25 that's been disposed of by agreement as I understand it, right?

1 I mean there's nobody fighting restitu -- or forfeiture, is
2 there?

3 MR. ROSS: No, Your Honor, that is correct. The
4 Court has already entered Preliminary Orders of Forfeiture for
5 Eisley, Kovac, Massey, Dominguez-Meija and Robinson, and with
6 the Court's permission, the government would like to provide to
7 the Probation Department the appropriate language for inclusion
8 in the judgments.

9 Also by agreement, Defendants Eisley, Kovac, Massey
10 and Dominguez-Meija have agreed to a housekeeping order that
11 will correct some of the property descriptions that were
12 mistaken in the previous orders.

13 So that would conclude the forfeiture matters unless
14 the Court has additional questions at this time on that.

15 THE COURT: I don't have any questions, but let me
16 just summarize my understanding so we're clear. The United
17 States counsel along with counsel for all six of the defendants
18 have entered into stipulations as to a Preliminary Order of
19 Forfeiture. That was presented to the Court and I've seen it
20 in each case. Those will be amended in four cases to more
21 specifically describe the property at issue without objection
22 from the defendants. And then once sentencing occurs, we as a
23 court will incorporate the forfeiture language from the
24 Preliminary Order into the final Judgment and Commitment, and
25 then forfeiture will be accomplished as to all six defendants

1 because all the property has been taken and disposed of,
2 correct?

3 MR. ROSS: I have no quibble with that, Your Honor,
4 except there is no forfeiture for D-6 so we don't need to go
5 anything with D-6; it's just Defendants 1 through 5.

6 THE COURT: Okay. All right. So Mr. Robinson you
7 didn't forfeit anything and he has nothing to agree to and
8 there's no order relevant to him, right?

9 MR. ROSS: I believe it's Ms. Dwyer's client who's
10 Defendant Number 6.

11 THE COURT: He's Number 5.

12 MR. ROSS: Oh.

13 THE COURT: That's William Phillips. That's all
14 right.

15 MR. ROSS: Defendant -- that defendant, Defendant 5,
16 did not forfeit any property.

17 THE COURT: Okay.

18 MR. ROSS: It would be Defendant 6. So --

19 THE COURT: All right.

20 MR. ROSS: -- cumulatively we have five defendants
21 who forfeited property.

22 THE COURT: Any defendant want to object to anything
23 that I said or concluded as to forfeiture? No? It looks like
24 everybody is satisfied.

25 All right. Then we will accept the Preliminary Order

1 of Forfeiture, we will amend the five orders as necessary to
2 properly identify the property, we will go to sentencing, and
3 without objection from counsel, we will enter Judgment and
4 Commitment Orders reflecting forfeiture of property that the
5 United States seized as proceeds or instrumentalities of the
6 criminal activity in this case, correct?

7 MR. ROSS: That is correct, Your Honor.

8 THE COURT: All right. Very good. Thank you for
9 your hard work, defense lawyers and Mr. Ross, and thank you for
10 taking care of forfeiture in such an efficient and
11 straightforward manner, and we will move on from there.

12 MR. ROSS: Thank -- thank you, Your Honor. May at
13 this time I be excused?

14 THE COURT: Of course.

15 MR. ROSS: Thank you.

16 THE COURT: Yeah. Seems to me like your work is
17 done. Thank you again, Mr. Ross.

18 All righty. Ms. Russo, we have taken care of
19 forfeiture and I think your next issue was victim impact, is
20 that what I understand?

21 MS. RUSSO: Yes, Your Honor.

22 THE COURT: Well, let me say a couple of things
23 before we get started on that. I -- I -- I would like to say
24 that obviously I'm working within the parameters of the Victim
25 Witness Act of which we are all well familiar. It's my

1 obligation to entertain here and provide an opportunity for
2 victims to address the Court.

3 I have received a number of materials already, all of
4 which I've thoroughly reviewed. But the government filed a
5 Sentencing Memorandum and the United States Attorney's Office
6 dropped a courtesy copy to my office last -- actually about two
7 weeks ago, 48 pages of Sentencing Memorandum in -- in each
8 matter, largely the same but individualized as to each
9 defendant.

10 I have, as you can all see I'm sure, a binder worth
11 of exhibits. Exhibit A is the same as to all of the defendants
12 and those are a photograph and a victim statement. There's a
13 number of other statements starting with Exhibit A-1 and
14 running through Exhibit MV-66 inclusive. Those would include
15 photographic evidence, memoranda, exhibits and statements of 66
16 victims of the criminal activity in the case. Again, I am
17 thoroughly familiar with -- with that. And I received a few
18 things after this particular document was filed which would
19 include some additional victim impact statements and materials
20 of that sort from the -- from the United States Attorney.

21 So I guess the first question I'd ask Ms. Russo is
22 whether or not I'm missing anything or if there's anything that
23 you need to provide to the Court that I haven't received
24 already.

25 MS. RUSSO: Your Honor, along with the exhibits that

1 we e-mailed, the letters that we received from victims a little
2 bit later last week, we have a few additional statements that
3 were submitted. We've given copies to the defense of all of
4 those statements. It would be Exhibits A through F for
5 purposes of this sentencing hearing. Exhibit A and B that
6 you've already seen, Your Honor, but were e-mailed yesterday to
7 the Court.

8 THE COURT: Okay.

9 MS. RUSSO: And the other ones are new, Your Honor.

10 THE COURT: Okay. If you want to give those to Mr.
11 Parker, he will pass those up and I will review them when we
12 have an opportunity.

13 With that in mind, I will receive Government's
14 Exhibit A through F for purposes of sentencing only.

15 And I will also let the defendants know I've received
16 all their sentencing memoranda, but I'll get to those when we
17 do individualized sentencing later in the proceeding.

18 For now, I just want to simply acknowledge receipt of
19 the government's sentencing memoranda -- memorandum --
20 memoranda as to all six defendants and -- and the victim
21 materials that have been discussed as well as A through F, and
22 that's what I have in front of me to this point as we consider
23 and receive victim impact testimony evidence and exhibits under
24 the -- under the act, right?

25 MS. RUSSO: Yes, Your Honor.

1 THE COURT: All right. What else do I need to do
2 with regard to victim impact before we allow you to present
3 individualized testimony and things of that nature?

4 MS. RUSSO: Nothing else, Your Honor. We can proceed
5 with calling the first individual who would like to make a
6 statement.

7 THE COURT: Okay. Very good. Anything else from the
8 defendants before we get started here? No? Okay.

9 For purposes of housekeeping, what -- what's your
10 timing look like, what are -- what's your intent?

11 MS. RUSSO: Um, Your Honor, we have approximately --
12 there are approximately a dozen parents and/or victims who are
13 here in the courtroom. Some of them are just here, they want
14 to be in attendance. They -- they want Your Honor to know that
15 they're here but they don't necessarily want to make a
16 statement. And then some of them do want to make statements.
17 Some of them are reading statements they've already submitted
18 and some of them just want to talk to you, Your Honor, off of
19 the cuff.

20 And then there are a few of the statements that have
21 been submitted, the written statements, where the parent or the
22 minor could not be here in court and they've asked us to read
23 their statement. We are planning on reading very short
24 excerpts from those statements rather than read the whole
25 statement given that Your Honor already has a copy of it, but

1 we also do want to honor their wishes and read those statements
2 to Your Honor.

3 THE COURT: Okay. That's fine. And I appreciate all
4 that and that's certainly responsive.

5 The thing that I would like to know that you didn't
6 touch on is -- it's 9:40. How long you think this process is
7 going to take?

8 MS. RUSSO: Your Honor, I think it will take about an
9 hour.

10 THE COURT: Okay. All right. Good. We'll set aside
11 an hour til about 10:45, maybe 11:00 o'clock, we'll have a
12 recess at that time. My understanding is that notwithstanding
13 the fact that he's D-1, Ms. Raben wants some time with her
14 client, so we'll go out of order and allow her and Mr. Eisley
15 to meet outside of the courtroom, and around about 11:00
16 o'clock we'll start sentencing presumably with Mr. Kovac, okay?

17 MS. RUSSO: Thank you, Your Honor.

18 THE COURT: All right. Go right ahead.

19 MR. SATAWA: Your Honor?

20 THE COURT: Yes.

21 MR. SATAWA: Before the government begins, you know
22 what they say about assuming --

23 THE COURT REPORTER: I'm sorry, I can't hear you.
24 You're going to have to speak up.

25 THE COURT: Just speak up so Linda can get your...

1 MR. SATAWA: Judge, before the government begins, I
2 don't want to assume, but Your Honor just said that Mr. Kovac
3 would go second. Based on the prior conversation I've had with
4 Ms. Russo, it's my understanding that I would go after that, so
5 second, Kovac going first, my client going second.

6 I just want to confirm that, and the only reason I'm
7 asking, Your Honor, is because I have a 3:00 o'clock sentencing
8 in front of Judge Michelson in this building, and if we're
9 keeping to the government's expected time schedule, I don't
10 think that's going to be anywhere close to being a problem for
11 me, but if it was, I'd like to let Judge Michelson's courtroom
12 know.

13 THE COURT: All right. We'll get -- we'll get -- you
14 go in the order that you want and we'll get -- we'll you out of
15 here on time, I -- I guarantee you that, Mr. Satawa.

16 MR. SATAWA: Thank you, Your Honor.

17 THE COURT: Okay. Thank you. All right. Go --
18 go right ahead. That -- that means if I'm wrong about D-1, 2,
19 3, 4, 5, you just go in the order that you had agreed with the
20 lawyers, okay?

21 MS. RUSSO: Yes, Your Honor.

22 THE COURT: All right. Go right ahead.

23 MS. RUSSO: Your Honor, we are going to call the
24 parent of MV-1. Specifically, we're going to call the father.
25 I'm on purpose not stating the name of these individuals to

1 protect them, Your Honor, and their privacy. So I'd like to
2 call the father of MV-1 at this time.

3 THE COURT: All right. Can you also direct me in
4 your book to where I ought to go. Is this Exhibit A-1?

5 MS. RUSSO: It is, Your Honor.

6 THE COURT: All right. Okay. Thank you very much,
7 Ms. Russo.

8 Sir, you can identify yourself, but obviously if you
9 don't want to you don't have to, but we're happy to hear what
10 you have to say.

11 THE WITNESS: Yes, I will decline to identify myself
12 except I am the father of MV-1.

13 THE COURT: Okay.

14 THE WITNESS: Yes. This case concerns my daughter,
15 MV-1, who was a victim of sexual exploitation on the Internet.
16 At the time of those events I was unaware of what was taking
17 place but I did observe that my daughter was exhibiting a
18 number of aberrant behaviors: extreme inexplicable panic
19 attacks, prolonged unconscious trance states, chronic insomnia,
20 chronic violent nightmares and extreme black hole suicidal
21 depressions.

22 Once these crimes were brought to my attention and my
23 daughter and I were able to talk about them together, I found
24 that these aberrant behaviors discontinued. It's been quite
25 obvious that these crimes had a severe negative psychological

1 impact on my daughter which was significantly destabilizing for
2 her and her ability to function in her life, in her school and
3 in her relationships.

4 My daughter and I are both very grateful that the
5 perpetrators of these crimes are being brought to justice so
6 that they will be able to cause no further harm.

7 THE COURT: Thank you very much.

8 MS. RUSSO: And if we could call now the mother of
9 MV-1.

10 THE COURT: Good morning.

11 THE WITNESS: Good morning.

12 THE COURT: Go right ahead.

13 THE WITNESS: It is very difficult to recount and in
14 a sense relive what MV-1 has gone through as a result of the
15 abuse she has suffered under the assailants' hands. Her
16 innocence was taken from her and her self-esteem and ability to
17 trust others was severely damaged. As a result, she had great
18 difficulty performing in school, and her relationships with her
19 peers and her family members suffered as she withdrew into a
20 dark, closed world of shame and self-hatred.

21 I am very grateful for that cold January day when the
22 FBI officer knocked on our door for from that moment on what
23 was dark and secret was brought out into the light and we began
24 a long climb toward healing, facilitated by love, patience and
25 many years of counseling.

1 Although MV-1's innocence can never be restored, a
2 hard sentence for these men would go a long way toward a sense
3 of justice and vindication. I hope that the perpetrators
4 receive the maximum sentence of jail time as well as hefty
5 fines enough to assist all of the victims with the cost of
6 whatever treatment they needed to recover from this brutality.

7 THE COURT: Thank you very much for those words as
8 well.

9 MS. RUSSO: Your Honor?

10 THE COURT: Yes.

11 MS. RUSSO: We call MV-1 at this time.

12 THE COURT: Okay.

13 (Brief pause)

14 MS. RUSSO: Your Honor, MV-1 would like me to read
15 her statement. She does not want to come up here at this time.

16 THE COURT: Okay. Go right ahead.

17 MS. RUSSO: "In many ways it is hard for me to write
18 this and it is hard for me to remember a lot of details
19 surrounding what happened a few years ago. Though I feel sick
20 and broken and very ill at the thought that I was convinced to
21 participate in the events of those perverted chat sites, I
22 don't know how these inhuman individuals parted these ideas
23 into my head: how being exposed is such a good thing; how
24 experimenting online sexually is the best thing to do; how you
25 don't have to worry about these predators online. Yes, they

1 said this to me and how nothing I do is wrong.

2 "I am humiliated that I thought these thoughts were
3 the right thoughts to think. I am devastated that I am
4 possibly now exposed in the flesh online. I am mortified that
5 I cannot do anything but write about my experiences with these
6 disgusting predators. All I can feel is stupid for all the
7 things I have done with these inhuman beings.

8 "For me now, my life is in shambles. Ever since
9 these encounters with these predators, I have never felt the
10 same. My work in school has lost its quality, my life at home
11 felt like hell from day to day in high school, my friends
12 turned into foes, and I lost my spirit to live a happy life.

13 "I am only just now starting to realize my horrible
14 mistakes so long ago and only now am I starting to heal from
15 these memories. I hope that these animals get what they so
16 rightfully deserve: an entire lifetime inside a cage with no
17 hope for release. MV-1."

18 THE COURT: Okay. Thank you.

19 MS. RUSSO: Your Honor, at this time I'd like to read
20 an excerpt from the mother of MV-4's statement. Both the
21 mother and father of MV-4 wanted these statements submitted and
22 wanted these excerpts read, Your Honor. However, they felt
23 that this incident was too traumatizing for them to come to
24 court today.

25 THE COURT: Okay.

1 MS. RUSSO: The mother of MV-1 writes -- or MV-4
2 writes, "To say that the evil you brought into our lives nearly
3 destroyed us would be an understatement. We thought we had
4 done everything to protect our children, to give them the
5 childhood that would lay a foundation that would prepare them
6 to navigate a world that is so potentially dangerous and evil;
7 to daily instill in them a value and worth that he -- that we
8 had hoped would be evil-proof, at least while they were under
9 our roof; to create in them a heart and desire to bring love
10 and hope into a hurting world, to be part of the solution.

11 "But here we sit under the new reality that you
12 introduced into our home, our little world, our precious
13 family. I am so disheartened that you were obviously so
14 wounded and decrepit in your soul that you purposed your days
15 and nights for the trapping and destruction of the innocent.
16 What kind of man does this? You designed and executed such a
17 plan of evil and soul-crushing consequences that if we did not
18 have a greater hope than what the world has to offer, we would
19 be crushed.

20 "But we are not. We are a family of hope. We are in
21 the midst of God's great love and he is faithful. What you
22 designed for our daughter's destruction God has redeemed for
23 her good. You may have stolen a sacred piece of us that we
24 will tragically never have back, but you will not have another
25 day of my daughter's or ours. I as a mother am counting down

1 the days til fear does not have another moment of our lives.

2 "You deserve no mercy from the courts. You are sadly
3 part of a brood of vipers that is hunting our children behind a
4 screen, and I am praying that the Lord leads the justice system
5 to make such an example of you that you will fall to your knees
6 and beg for mercy."

7 And for the father of MV-4 he also wrote a statement.
8 He writes, "People like this need to be stopped since they are
9 preying on helpless children that have not matured and do not
10 know who can be trusted in their lives. I can only express and
11 communicate my requests that these men be put away for a very
12 long time.

13 "Unfortunately my daughter and wife will need to cope
14 with the effects from this event as well as embarrassment for
15 the future. They will both need to learn how to accept this
16 and work together to get past this event in our lives when in
17 reality this should never have happened."

18 And, Your Honor, there is a statement from the mother
19 of MV-5 and she writes, "That grown adults choose to spend
20 their God-given life destroying children's lives, sense of
21 well-being and manipulating their innocent growth into
22 adulthood is repulsive. I remain in disgust of their heinous
23 actions and what they have taken from my child that can never
24 be replaced.

25 "The Internet continues to be a very complicated yet

1 easily accessible tool that allows criminals into our private
2 lives. Each group of manipulative cretins perpetuating pain,
3 loathing and offensive behavior that can be brought to justice
4 is hope that some day kids of the future will not be
5 susceptible to these outrageous actions."

6 And then, Your Honor, a statement from the mother of
7 MV-8. If you recall, MV-8 is discussed quite a bit in the
8 government's sentencing memos and MV-8 we have talked about,
9 and also, Your Honor, this is the victim that these defendants
10 knew was having some suicidal tendencies and yet continued to
11 prey on her anyway as well as prey on her younger sister, Your
12 Honor.

13 THE COURT: All right. Brief interruption.

14 MS. RUSSO: Yes.

15 THE COURT: You -- you mentioned that MV-4's parents
16 were not here, and I just, for matters of completeness, if --
17 if you'd make a similar showing on MV-5 and M -- MV-8 and --
18 and the future statements that you read, we'd appreciate that.

19 MS. RUSSO: Absolutely, Your Honor. MV-5's mom is
20 not here today, Your Honor. MV-8's mother is not here but
21 MV-8's father is here and he does wish to address the Court.

22 THE COURT: Okay. So you are in excerpts of
23 Exhibit 8, which is the mother of MV-8 and another victim. Go
24 right ahead.

25 MS. RUSSO: Thank you, Your Honor. The mother of

1 MV-8 writes, "After all of this, my oldest spent a long time
2 crying every night and it created more stress and depression.
3 Her amount of sleep declined. We had to find a counselor who
4 could help our family work through this. We now see this
5 counselor regularly.

6 "My youngest has retreated and is more quiet now.
7 She used to be happy every day and is now more pessimistic.
8 She goes to therapy sessions as well.

9 "As their mom, I feel defeat, embarrassment and
10 shame. I feel I failed my girls. But I also feel angry
11 because it is these men's fault for luring these girls in,
12 lying to them, making them do things that they should never
13 have even thought of.

14 "I worry about what it has done to their psyche.
15 Will these pictures and videos show up again in life? Will it
16 affect them getting a job? Will it impact their future
17 relationships? I worry about them every day. There isn't a
18 day that I don't think about what this has done to them and how
19 I have to be strong for them and work on trying to build their
20 confidence back up. I worry about trust issues with males.

21 "They have changed our lives forever where we won't
22 be the same. Will they feel this for the rest of their lives?
23 I will worry that they will do this to other sweet, innocent
24 girls.

25 "We need closure for our family so we can heal. I

1 beg you to give the maximum sentence possible to keep others
2 safe."

3 And, Your Honor, with that, the father of MV-8 would
4 like to come forward and make a statement.

5 THE COURT: Good morning to you.

6 THE WITNESS: Good morning, Judge Murphy. It's a
7 tough day.

8 THE COURT: There's Kleenex there if you'd like. And
9 I'd -- I'd urge you to take your time, okay?

10 THE WITNESS: I can just say that I'm finally and
11 forever affected by this. As a parent, you know, you do
12 everything that you possibly can. I've always enjoyed trying
13 to teach my girls to live their lives the right way. You know,
14 all the sacrifice and the hopes that you have for them and for
15 it to be just taken away, it's so hard.

16 My wife couldn't be here because of the anguish. I
17 felt like I needed to be, but pretty hard. We hope that you'll
18 do everything you can so that this doesn't happen to others.

19 Thank you.

20 THE COURT: Thank you very much.

21 MR. MULCAHY: Your Honor, next, one of the exhibits
22 that Ms. Russo handed up at the beginning of our hearing today,
23 it's marked as Government Exhibit F as in Frank, so it's one of
24 these separate ones.

25 THE COURT: Mm-hmm.

1 MR. MULCAHY: As a quick introduction, this is for
2 Minor Victim 11 whose mother wrote this letter and whose father
3 I've spoke with on the phone on several occasions or traded
4 e-mails with as well. Neither the father, the mother nor MV-11
5 could be here. She submitted this late last night, and when I
6 spoke with her, she'd indicated that she was having her husband
7 sort of shield her from the goings on in this -- in this
8 courthouse, and -- but hoping for a last-minute effort to -- to
9 speak to the Court, she offered this statement late last night,
10 and I will read just an excerpt from it.

11 THE COURT: Okay.

12 MR. MULCAHY: "My daughter was a bright-eyed, happy,
13 engaging honor student. She enjoyed running, arts and crafts
14 and interacting with her friends and family. Because these
15 deranged individuals lured my daughter on the Internet with
16 their lewd behavior, she became reclusive, sad, depressed,
17 angry and literally a shell of herself. She spent weekends
18 locked in her room refusing to come down and eat, and this was
19 completely out of character for her.

20 "In our wildest dreams we would never think that
21 grown man -- grown men lured her into teen chat rooms and were
22 calling her names such as flat-chested or baby or stuck up or
23 nerd because she would not send naked photos of herself. This
24 constant daily verbal bullying led to an acute depressive
25 episode."

1 What follows, Your Honor, is a series of discussions
2 about the costs, including a months' long commitment into a
3 wilderness program in Utah. "We did not" -- and as a result of
4 that, Your Honor, she writes, "We did not see her for her 16th
5 birthday, for Christmas or for Thanksgiving due to her
6 intensive treatment programs. Prior to this Internet
7 exploitation and bullying, she was -- she had no history of
8 mental illness.

9 "This exploitation has left a major impact on my
10 daughter, her two siblings, my marriage and our family. She
11 has missed an entire year of school and has been in treatment
12 with -- which has cost us over \$100,000, exhausting all of our
13 savings. She is still undergoing weekly treatment by a
14 psychiatrist and psychologist to rebuild her self-worth, her
15 self-esteem and her confidence through therapy and medications.
16 She no longer has the same smile, bright eyes or sense of
17 childlike wonder or joy. Each day is a challenge as she
18 continues to struggle."

19 And, Your Honor, what follows are drawings that MV-11
20 herself made. The first I believe is a self-portrait, and the
21 second, Your Honor, is a -- is a drawing that I know is
22 difficult for the Court to read the sort of top of the page.
23 There are certain words written. These are the words that she
24 was called on the Internet by the men in this courtroom,
25 including some of the words I think Your Honor can read.

1 THE COURT: Mm-hmm. These were drawn after the
2 therapy started or --

3 MR. MULCAHY: Yes, Your Honor.

4 THE COURT: -- as part of the therapy or...

5 MR. MULCAHY: Exactly right, as part of the therapy.

6 THE COURT: All right. Okay. I read the entire
7 letter as you were speaking so...

8 MR. MULCAHY: Thank you, Your Honor.

9 THE COURT: Okay. Thank you.

10 MR. MULCAHY: Your Honor, next the government would
11 ask the mother of MV-10 to come forward.

12 THE WITNESS: Good morning.

13 THE COURT: Good morning.

14 THE WITNESS: Thank you. I'm the parent of MV-10,
15 and she's not here with me today because she forbid -- I -- I
16 brought this up. She's now 16 years old, but I brought this up
17 almost a year ago, about eight months ago, that she might be
18 able to come, and she absolutely doesn't want to talk about it
19 and she forbade me from coming and she forbade her father from
20 coming, but because she's at camp and I felt it was very
21 important for us as a family for me to at least see and talk
22 about what has happened.

23 She started eighth grade as a normal girl. She was
24 smart and goofy and confident and she played guitar and went to
25 Girl Scouts. She was even writing her own songs and playing

1 them.

2 And in eighth grade she started getting migraine
3 headaches. Halfway -- about halfway through she was getting
4 migraine headaches. She started missing a lot of school
5 because of her headaches. She quit guitar. She quit Girl
6 Scouts. She was getting angry. She was hard to deal with. I
7 knew teenage girls could be difficult, but I also knew that
8 something was wrong with the scale of what we were
9 experiencing.

10 She got very private over the summer, she got very
11 moody, she started getting very obsessive, making sure
12 everything had to be just so, and I really didn't know what was
13 going on. At the end of that summer she decided she wanted to
14 live with just me instead of alternating between her father's
15 house and mine and she was considerably more needy than she had
16 been.

17 She started high school and she was in all honors
18 courses, and in her first semester she missed 15 days of school
19 for migraines. Because of that, she failed three courses and
20 she also thought she was stupid. But her teacher said don't
21 take her out of the honors classes; it's not her ability, she
22 just needs to be here more. But her confidence was gone. Her
23 second semester she continued in those courses and she had to
24 take two online recovery courses for the credits she had
25 missed. But -- but her confidence was just gone.

1 It was in March of her freshman year that I got the
2 call from the local FBI office and we learned of what happened.
3 It caused a huge struggle in our family.

4 My daughter doesn't know how to process these things.
5 She still won't talk about it. She wouldn't talk about it that
6 day. She reacted with anger. She was embarrassed. She was
7 scared. And as someone she loves, I was the one who bore the
8 brunt of all this and really doesn't -- didn't know what to do.

9 She'd been very sure it was private. She thought she
10 was talking with teenagers. She swore they were lying to her
11 at the FBI. But she wouldn't talk about any of it and
12 continued to be very defiant and difficult to live with.

13 Her sister moved home from college and didn't really
14 know how to, you know, engage with someone who was going
15 through all these -- all these things. So, you know, we didn't
16 give her a lot of details either. So her relationship with her
17 sister is not real good right now. It hasn't been since that,
18 you know, time of her -- well over a year ago. They just had
19 screaming fights. They have not been on good terms.

20 When her sophomore year started, she started having
21 bouts of dizziness, nausea and occasional vomiting. We've had
22 her tested in various ways. She spent a day in the hospital,
23 she got an MRI. They -- they can't find what's wrong. She has
24 vertigo. She vomits a few times a week. They -- they can't
25 find any solutions. They've indicated that it's probably

1 stress, but she was refusing to go to therapy until just
2 recently when she's had one appointment.

3 So all this, you know, she'd gone through a couple of
4 years of stress by this time. And she now keeps calendars, she
5 tracks, she organizes. She can't stand anything going wrong
6 out of her plan for her day. She obsesses about her nails, her
7 hair, her skin, you know, whether or not she's going to be sick
8 and miss her next babysitting job, you know, all the normal
9 things that a kid would do. She's just got too much going on
10 in her head to -- to really function well.

11 But in her sophomore year she did learn how to manage
12 her headaches, and despite missing ten days of school each
13 semester, she still got all As and Bs in her honors classes.
14 So she's a kid who wants more and wants to go forward in life,
15 but she comes to me every week crying, recalculating her GPA
16 because she says, "If I don't get a 90 on this test, I'll lose
17 a chance to get into any college I want to go to." You know,
18 she -- she's calculating her GPA out a couple of years ahead
19 because she knows she messed up her freshman year so badly due
20 to all the stress that she was under.

21 Her physical health, her mental health, her family
22 relationships, her creativity and her grade point average, you
23 know, have all been damaged by this, and -- and I don't know
24 how long it'll last or whether she will be able to talk about
25 it or share it. She doesn't want to speak to anyone to this

1 time, but I'm -- I'm hoping as we go forward she can heal. But
2 I'm very, very upset about what was taken from us.

3 THE COURT: She's going to be a senior in the fall?

4 THE WITNESS: Junior.

5 THE COURT: Junior. Okay.

6 THE WITNESS: Yeah.

7 THE COURT: Thank you.

8 THE WITNESS: Thank you.

9 MS. RUSSO: Your Honor, I'm going to read a short
10 excerpt from the father of MV-16. MV-16, Your Honor, resides
11 in the Eastern District of Michigan. However, her father could
12 not be here because he was afraid of how traumatized he was by
13 this and -- and seeing these individuals in person.

14 That said, he's been in constant contact with us,
15 even calling last night to ask me if I'll tell him as soon as
16 the sentencing is over what the sentences were.

17 He writes, "It's increasingly difficult to describe
18 my feelings. I've been angry, sad and disgusted. I'm too
19 paranoid to allow my now adult daughter to do anything without
20 supervision.

21 "I absolutely refuse to be in the same room as these
22 people. My daughter refuses to be in the same room as these
23 people.

24 "We are respectfully requesting that a maximum
25 sentence be granted for all victims involved."

1 And, Your Honor, with that, we would like to call the
2 parent of MV-21 at this time.

3 THE WITNESS: Good morning, Your Honor.

4 THE COURT: Good morning, sir.

5 THE WITNESS: My name's Jeremy and my daughter's a
6 victim in this case.

7 I'm just beginning to understand the gravity of harm
8 that has been caused by these defendants. My daughter and my
9 niece were both victims. Their relationship as well as the
10 dynamics of our family has been forever changed. They were the
11 best of friends and now they rarely see one another. That
12 bond, their relationship, our family I believe forever has been
13 altered.

14 Your tears can't take that back. Nothing that you
15 say can take that back. I see no remorse, none. And even if
16 there was any, you can't take that back. You can't give back
17 what you've taken from those little girls.

18 I'm sure many others also have struggled to find the
19 answers to mend our broken children and then to find a way to
20 help them heal. I've taken my daughter to counseling, which is
21 just starting to help.

22 And I hope, Your Honor, that you can start to see
23 that while these vultures, these precise, practiced, planned
24 and skilled predators, to give all their excuses to find
25 sympathy and to gain leniency, I assure you they can say

1 nothing, nothing that can repair or take away or mend the
2 innocence and the childhood that they have taken from my family
3 and many, many others, including their own, including their
4 own.

5 As a judge, I don't believe that it's possible for
6 you to totally get back some of the things that they've taken
7 away either, but I do humbly ask you to give these victims the
8 most that you can give them, which is the maximum justice that
9 you can give these guys. Justice to my -- my daughter, I'm
10 sorry. The maximum sentence to these guys is the maximum
11 justice is that you can give to these children. The videos,
12 the pictures, we, I, Your Honor, we can't get it back. They're
13 out there. You can't get them back. You can't fix it. I
14 can't fix it.

15 I would ask you not be swayed, Your Honor, please,
16 with their pleadings, just as they pled with our daughters and
17 their victims, deceiving them, but I beg of you to level the
18 maximum sentence possible and do your very best to give our
19 brave victims, my little girl justice, closure, and by doing
20 so, maybe we can begin to heal and regain faith in this world
21 in which we live.

22 I want to thank the men and women that were stepped
23 in to protect our children. They've done their part. Our
24 families, our daughters, we're here to do ours, and I ask that
25 this Court, this most Honorable Court of this great country

1 finish it for our children.

2 THE COURT: Thank you.

3 MR. MULCAHY: Your Honor, at this time I'd ask MV-21
4 to step forward.

5 (Brief pause)

6 Your Honor, the moment is big her for her so she has
7 handed me a note and I will read it on her behalf with the
8 Court's permission.

9 THE COURT: Yep, go right ahead.

10 MR. MULCAHY: "At the time of all of this I was a
11 naive teenage girl, and my parents taught me that most people
12 are good so I trusted these men that I thought were my age. I
13 felt comfortable because I was not the only girl. They talked
14 us into doing -- they talked us into doing these horrible
15 things. No older man should want a teenager to undress herself
16 for them, but we thought we were talking to someone our age.
17 Yes, we made a bad choice, but if the FBI would not have showed
18 up, us girls would be gone wherever these people wanted us to
19 be. These men knew better.

20 "When the FBI showed up and told me these people are
21 not who they said they were, I lost my trust in many people
22 and people lost trust in me. My relationships with my family
23 have changed and sometimes I feel like people are watching me.
24 It is not okay for me or any of these girls to feel this way.

25 "We should not have to be here today. We should be

1 hanging out with our friends. We are teenage girls. We are
2 going to make mistakes. Just don't let this be possible for
3 other teenage girls like us."

4 Next, Your Honor, I'd like to read the victim impact
5 statement from Minor Victim Number 24. She is unable to be
6 here today as well. And she writes, "After becoming aware that
7 I was taken advantage of by adult men, it made me feel
8 uncomfortable around my parents and it was tortuous being in my
9 own skin. Because of this, it makes me unable and unwilling to
10 trust anyone anymore.

11 "In the beginning I was led to believe that these are
12 male individuals that I was communicating with who claimed to
13 be the same age as me. They were fun and gained my trust over
14 time. Within a few weeks they asked me to expose myself and
15 made me feel uncomfortable. The day after it happened, I
16 noticed that the teen has asked other girls to do much worse.
17 I then left the website and never came back. The impact this
18 incident had on me made me feel violated, betrayed and have a
19 loss of self-worth."

20 Your Honor, next, Minor Victim 27's mother, father
21 and sisters co-wrote a letter that I will read a portion of.
22 Minor Victim 27 could not be here, neither could her parents or
23 her sisters.

24 "My wife and I get sick to our stomach when we think
25 about the defendants, how the defendants used the Internet to

1 physically abuse our daughter. She is a sweet, innocent
2 teenager in high school just trying to find someone she can be
3 friends with. Her Catholic high school teachers were extremely
4 caring as she was missing class and grades falling. They
5 supported her and they kept her in school.

6 "But she stopped giving me hugs in the morning. Her
7 weight dropped dramatically even though she was just skin and
8 bones to begin with. She was five foot six and just
9 110 pounds.

10 "So many questions about how I could have been a
11 better father, how I could have protected her better against
12 the defendants' Internet -- the Internet child predators, how
13 the cruel event may come back to haunt her in later years or if
14 the same people are able to contact her using their knowledge
15 of her to manipulate her again with other photos and texts not
16 uncovered by the FBI I assume and others like them. We are not
17 certain that all of the evidence has been recovered. We are
18 not sure how much the cruel events hurt her recovery but we
19 know that it has caused her great harm.

20 "Please, please keep these defendants from contacting
21 any other children in any way and put them in custody for as
22 long as possible."

23 Judge, I'm going to read -- lastly, I'm going to read
24 excerpts from a letter written by the mother and father of
25 Minor Victim 56 who could -- neither the mother, the father nor

1 the victim could be here today.

2 "This has come as a terrible shock to my wife and I
3 and has caused heartache and stress to our lives and our
4 relationship. We are very concerned about our daughter's
5 mental health. We now question her development through a
6 different lens. We worry that her exposure and involvement in
7 this child pornography ring will ruin her chances of normal
8 sexual development.

9 "We cannot share what happened with anyone else in
10 our extended and very close family. It has become our dark
11 secret that is not spoken about other than between the three of
12 us. This does not feel right and our family should not have to
13 deal with these kinds of emotions.

14 "I trust that you will take this into account when
15 you are sentencing these awful criminals. They have exposed
16 their sick perversions in front of very innocent children and
17 caused irreparable harm."

18 Your Honor, next we'd ask the family of MV-35 and
19 MV-35 to step forward.

20 THE WITNESS: Okay. So sorry if I stutter or
21 anything. I'm not that --

22 THE COURT: Just take your time.

23 THE WITNESS: As a typical teenager, all I wanted
24 really was attention. I wanted people to like me. I had a
25 friend that introduced me to the Internet. I started making a

1 bunch of online friends more than I had in the day-to-day real
2 life. The Internet was my escape from depression that I didn't
3 know I had at the time.

4 My friend made videos that looked real but really
5 weren't, but her videos got lots of reviews and responses so I
6 decided I would start making videos. The videos were not
7 provocative whatsoever.

8 After being on the website for so long, I started
9 getting messages to join chat rooms. After a while of getting
10 the requests, I decided I would accept one. This is where the
11 problems began. I was the only one on the webcam and there was
12 just chat underneath me. It felt normal at first, and then I
13 started to feel -- I started feeling strange because I was
14 looking at myself with a bunch of words underneath me. I
15 brushed it off and continued because I enjoyed having friends
16 to talk to every day. They were always there no matter what
17 time of day.

18 After a while of them gaining my trust and getting to
19 know them, I started being flirtatious with them. They seemed
20 to enjoy it and I liked the attention they were giving me so I
21 continued to do so. I teased them and one of them recorded the
22 video.

23 Then from then on, I was blackmailed. They
24 blackmailed me by threatening to come to my house and hurt my
25 family and I -- they named everyone that lived in my house so I

1 knew that these threats were serious. I never told anyone
2 about it because I thought I could fix it myself.

3 They would tell me to take off my clothes and touch
4 myself in sexual ways so I tried to accommodate to their
5 desires. Every time I would do so they would record me and
6 blackmail me over and over again, which turned into an
7 intimidating and vicious cycle.

8 I felt like -- I felt like I was being watched 24-7
9 and this started to take a turn on my daily life. I started
10 hurting myself and I was in and out of the hospital for
11 self-harm and attempt of multiple -- I was attempt from --
12 attempted suicide.

13 I had enough of being harassed and manipulated that I
14 ended up never wanting to touch a computer again. The tragic
15 pain this has caused me still today eats my soul. Even though
16 I still never touch a computer to this day, I still live in
17 fear that they would find a way to hurt my family. Okay.

18 THE COURT: Thank you.

19 MS. RUSSO: And, Your Honor, the mom of MV-35 would
20 also like to speak.

21 THE WITNESS: Thank you for the opportunity to speak.

22 THE COURT: Of course.

23 THE WITNESS: This has affected us. Sorry.

24 MS. RUSSO: Take your time. That's okay.

25 THE WITNESS: I have a very, very close relationship

1 with my daughter. We're -- we've always been pretty much
2 inseparable. This has been a shock, and the bits and pieces
3 have been coming out of her slowly for months and so many
4 things have begun to make sense. In high school, as she just
5 said, she just stopped using her laptop and refused to touch it
6 and to this day doesn't, won't -- won't touch one. I've gotten
7 into so many arguments with her over it because it didn't make
8 sense. I have a store that I opened with the intent for her to
9 take over one day, and she can't manage it because she won't
10 touch a computer. So I can't tell you the guilt that I have
11 for the arguments over this. And knowing now what I know, I --
12 I don't know -- I don't know how we're going to proceed after
13 this. I don't want her to have to touch a computer now.
14 That's hard in this day and age.

15 She almost didn't graduate over this. The school
16 didn't let us know until the week of. And come to find out,
17 she had done all of the work. She just didn't -- you know, it
18 had to be on the computer. So she had six credits worth of
19 high school work that weren't submitted and she almost didn't
20 graduate over that. The school allowed us one extra day and I
21 went to school with her. I even put on her uniform that
22 morning as a joke, you know. I had no idea why she -- none of
23 it made sense.

24 I didn't let them go out very much, my kids, because
25 we lived in the city and I thought that they were going to be

1 safe in my home. This happened in our home.

2 They may be caught now but they've gained something
3 that I don't know how to get back for her. They took her
4 security and they robbed her of being able to be a child. Even
5 though they never touched her physically, she was still raped
6 by them, and she was not the only one.

7 The sentencing can never equal the pain that they've
8 caused my daughter and so many countless children that they
9 interacted with, but we are relieved that they are caught now
10 and that my daughter and so many others' daughters will be safe
11 from them whatever you sentence them.

12 Thank you.

13 THE COURT: Okay.

14 MS. RUSSO: Your Honor, MV-41 and her mother also
15 submitted some statements. Those are in the new exhibits.
16 We're not going to read an excerpt from those but I just wanted
17 to point that out to Your Honor.

18 And then right now we're going to have MV --

19 THE COURT: Hold on a minute.

20 MS. RUSSO: Oh, I'm sorry.

21 THE COURT: I have 41 with a -- tab 41 has only a
22 photo.

23 MS. RUSSO: Yes, Your Honor.

24 THE COURT: So where -- where should I look for --

25 MS. RUSSO: These would be ones that we submitted

1 today, Your Honor, the ones that we passed forward. They were
2 submitted to us last night by --

3 THE COURT: What number? Oh, here it is, E -- E-1
4 and E-2?

5 MS. RUSSO: It is, Your Honor, that's correct.

6 THE COURT: Okay. Okay. Go right ahead.

7 MS. RUSSO: Thank you, Your Honor.

8 We are going to at this time move on to MV-50, Your
9 Honor. Her mother is here.

10 THE WITNESS: Good morning, Your Honor.

11 THE COURT: Good morning. Okay. Go right ahead.

12 THE WITNESS: Today as I stand in this room, I stand
13 as a woman, an ex-wife and a single parent, but most
14 importantly, I am a mother.

15 I'm here to speak to six men who loved to look upon
16 young girls, watch young teenagers, probably mostly girls,
17 whether in person, in picture or in videos. How dare you,
18 especially any of you who have children, especially any of you
19 who have children who think you're a good father? To take the
20 mistakes that these children made for your pleasure, just who
21 do you think you are? What goes through your minds? Have you
22 ever asked yourself, "Self, does this get me off more than an
23 adult woman?"

24 My daughter was one of these teenagers you watched
25 and looked at. She was raised by me, a single mother who has

1 had medical problems since before she was even thought of.

2 As a small child she never really had a father who
3 honestly loved her, tried to teach her what she wanted --
4 excuse me, tried to teach her what to watch for when boys start
5 noticing -- taking notice of her or even how to love or to
6 teach her what love really is or how to love herself.

7 Susan, my daughter, was a child whose father bought
8 her love but left me to try to raise her as both parents. Do
9 you know how hard that is? Do you know exactly how hard it is
10 to do what you -- to do -- excuse me, I'm so sorry. But left
11 me to try to raise her as both parents. Do you know exactly
12 how hard that is? Do you know how unfair it is to my child?
13 To any child? Guess not.

14 However, as I said, she was an underage, stupid kid
15 who did not know any better. She didn't know it was illegal to
16 send, quote-unquote, nude photos. Once I found out, I tried to
17 explain to her how dangerous it was because of men like you.

18 I honestly don't know how bad it was until I saw cut
19 marks on her body, her wearing long sleeves and pants during
20 the summertime, when she tried to run away and I had to have
21 her placed in treatment programs for emotional and suicidal
22 thoughts. But I also didn't know was that she was having
23 homicidal thoughts towards me, her mother, the only person who
24 always was in her corner.

25 Little did I know the extent of her mental, emotional

1 and physical side until she told me that her first boyfriend
2 abused her in every way and she never told me.

3 She has always had low self-esteem, never felt like
4 she was pretty, but most of all not worthy of any goodness. If
5 anyone pays her a compliment, she just brushes it away. Now
6 any guy she might want to talk -- excuse me, try to date thinks
7 it's okay to treat her how they -- try to treat her how they,
8 quote-unquote, "heard, saw or seen," unquote, about her. If
9 she is friends with a guy, after a while it starts all over
10 again.

11 As I said before, she would cut to realize she still
12 felt things. She is now proudly one and three-fourth years
13 clean this past Sunday from not cutting.

14 Her depression, anxiety, replays of the past has come
15 back. She is so bad that her body is covered with hives from
16 head to toe. That's why she could not be here. Nothing of
17 over-the-counter medication nor prescription has cleared or
18 calmed her skin. Susan has been diagnosed with ADHD, ODD, OCD
19 and has a co-dependency to me more than any -- more than she
20 was when she was a small child.

21 My children were raised very modestly. If their
22 jeans hugged their butts, they didn't wear them. If their
23 shirts, swimsuit were too tight, nope, sorry, they didn't wear
24 them. Now that they are both over the age of 18 and as long as
25 they do not live underneath my roof, they can wear, do whatever

1 they want. Susan still lives with me and will not walk out
2 looking, quote-unquote, like a hoochie mama or in Daisy Dukes.

3 Since she started ninth grade, having all of this
4 crap started, putting up with her being a teen/minor and
5 hanging around people who influenced her badly, we've had our
6 ups and downs. I never imagined I would ever have Susan
7 arrested for hitting me while she was 15. Five months after
8 that I had her hospitalized.

9 As a parent, I went to the police when pictures were
10 on Facebook, but because of the city limits of where I live,
11 they did nothing.

12 I did everything I knew how to do. In our counseling
13 sessions at home we, her sister and I, tried to explain to her
14 what could happen. She accepts her responsibility. The
15 boyfriends in which she's only had two were probably part of
16 this, I don't know.

17 But the two of you who have children or any of you
18 who have children, do you feel weird or do you look at them as
19 you did our children? How would you feel if it was your
20 children men were looking at? I bet you'd want to beat the
21 snot out of them and then some.

22 As parents we try to do our best, raise our children
23 with love, respect and try to teach them to accept
24 responsibility for their actions. The law says as parents we
25 are responsible for our children's actions. You betcha we are.

1 The six of you sitting here had better understand
2 that pleading guilty, listening to all of us parents give you
3 the, quote-unquote, what-for as my mom used to say, guess what,
4 guys? You're part of the responsibility.

5 When you get to prison, I -- people like you better
6 damn well -- damn well watch yourselves. You're going to be
7 known even before you get your foot in the cell. Sexual
8 predators are the ones who are in a gang all of their own. The
9 men in prison, no matter what they did, hate any man, any men
10 who are like you who exploit children. They will make you,
11 quote-unquote, their bitch, and you better not drop the soap.

12 I prayed about this situation that my daughter put
13 herself in. Just as you know, just so you know, she graduated
14 high school with everything going on. She walked proudly
15 across the stand, accepted her diploma, hugged her principals
16 and came and hugged me. She's a beautiful young woman now.
17 She's always going to have to live her life knowing what she
18 did and it's going to make her -- it's going to make her a
19 stronger person.

20 For taking more of my child's self-esteem,
21 self-confidence, self-worth, self-respect, 20 years is not long
22 enough. Being registered sex offenders is a start. If you are
23 sentenced to 40 years, you could be out in 20 with good
24 behavior. If you're offered any classes while in prison,
25 especially sex offender classes or for pedophiles, take them,

1 learn from them, learn what you did to our children and why we
2 as parents look at you in disgust. We don't want to but that's
3 the only way you've given us.

4 But one thing I do want to know is when you look at
5 your children, the men who have -- who have them, what do you
6 tell them? How do you explain what you did, why it's okay for
7 you to do that to other children?

8 Thank you, Your Honor.

9 THE COURT: Thank you very much.

10 MR. MULCAHY: Your Honor, I have one final minor
11 victim who wants to be heard. She could not be today but she
12 wrote a letter to the Court. She is Minor Victim 66. She just
13 recently turned 18.

14 And in part she writes, "I would have anxiety attacks
15 during school, and my depression was so bad I would stay home a
16 lot. I had turned to online chat groups because no one knew me
17 and I could just be myself. Looking back now, I feel violated
18 and completely taken advantage of. I was naive and admit that
19 I could have been smarter with my actions, but that's coming
20 from the older me, not from when I was a child.

21 "It makes me sick to my stomach knowing that these
22 men took pictures and took advantage of me. At first when I
23 found everything out, I didn't know how to feel or react so I
24 stood tall because it hadn't sunk in about what had happened.
25 A week later I became more self-conscious and all I could think

1 about was this case and my pictures. It has been tearing me to
2 pieces just wanting to know who's seen them and how much have
3 they been spread around. I've been just disgusted with myself
4 and haven't been motivated to do anything. I'm learning to
5 cope because life has to go on.

6 "I have a job now that I've held down for 11 months
7 and I'm loving every minute of it. I graduated in 2017 and
8 have been working full time because I decided college wasn't
9 for me and I would rather be working with horses one on one all
10 the time. Working at my job now and with my horses are more
11 forms of therapy, and I've been writing everything down to help
12 cope. I have to move on but this case will be on my mind until
13 the day I die."

14 Your Honor, those are the entirety of the victim
15 statements and presentations that we have for the Court. Thank
16 you.

17 THE COURT: All right. Thank you very much.

18 All right. Well, the government suggested a dozen
19 presentations and an hour of length and that's essentially what
20 we've done.

21 I don't really know what else to -- to say right now.
22 I guess I should ask -- I think I've been over this but I don't
23 want -- I don't want to make any process mistakes. We've had a
24 number of individuals representative in nature. As I
25 mentioned, I've looked at the entire sentencing memorandum and

1 all the victims' statements, which come up to about 66-plus,
2 and then beyond -- and then A through F today, two of which I
3 read, E and F, while the government lawyers were speaking.
4 Just want to make sure no other victims, no other statements,
5 testimony, anything that I'm missing at this time?

6 MR. MULCAHY: No, Your Honor, that's the entirety.

7 THE COURT: Okay. All right. It's 10:40. Let's
8 take a less than 10-minute break. I think the defendants can
9 stay here. We'll get back at 10:50 and we'll begin sentencing
10 with Mr. Satawa's client, correct?

11 MR. MULCAHY: No, Your Honor, with Mr. Kovac, which
12 is Mr. Korn's client.

13 THE COURT: Okay.

14 MR. MULCAHY: Who would be Defendant Number 1.

15 THE COURT: Okay. How do you want to handle Mr.
16 Eisley and Ms. Raben? What -- what --

17 MR. MULCAHY: Ms. Raben?

18 MS. RABEN: Your Honor, what I had thought might
19 happen was if the marshals can take Mr. Eisley downstairs so
20 that I can --

21 THE COURT: I don't know if they can split things up
22 like that. Are you able to get a --

23 MS. RABEN: No, I haven't had a chance to talk to
24 him.

25 THE COURT: Yeah. Supposing we wanted to send one

1 defendant downstairs and -- I'll tell you what. Why doesn't
2 the United States Attorney work with the marshals and -- and
3 get a solution and we'll take 15 minutes til 11:00 o'clock.
4 But Mr. Eisley needs to meet with his lawyer, hasn't had a
5 chance, but we want to have the other defendants stay here so
6 we can sentence them sequentially, okay?

7 MR. MULCAHY: Yes, Your Honor.

8 THE COURT: All right. Let's be in recess til 11:00
9 o'clock.

10 THE CLERK: All rise. Court is now in recess.

11 (Court in recess at 10:44 a.m.)

12 (Proceedings resumed at 11:04 a.m., all parties
13 present)

14 THE COURT: Okay. Everybody may be seated.

15 Okay, Mr. Korn.

16 MR. KORN: Your Honor, we're ready to proceed.

17 THE COURT: Thank you.

18 MR. KORN: May I have Mr. Kovac sit near me during
19 the sentencing?

20 THE COURT: I was just going to invite the marshals
21 to escort Mr. Kovac to the table here.

22 MR. KORN: Thank you, Your Honor.

23 THE COURT: If I could.

24 Okay. While you're doing that, I will get organized.

25 (Brief pause)

1 THE COURT: Okay. I have too many files here. Just
2 relax for a minute. I don't have a folder for Mr. Kovac.

3 (Brief pause)

4 THE COURT: Thank you very much.

5 THE CLERK: You're welcome.

6 THE COURT: All right. Okay. My apologies.

7 Mr. Mulcahy, ready to go?

8 MR. MULCAHY: Yes, Your Honor.

9 THE COURT: So we're going to conduct sentencing on
10 Mr. Kovac, correct?

11 MR. MULCAHY: Yes, Your Honor.

12 THE COURT: And you're prepared as well, Mr. Korn?

13 MR. KORN: We are ready to proceed, Your Honor.

14 THE COURT: Let me invite you and your client to come
15 on up to the microphone.

16 MR. KORN: Thank you, Your Honor.

17 THE COURT: You are welcome.

18 And the first question I am going to ask is for Mr.
19 Kovac. Have you, sir, had an opportunity to read over and
20 thoroughly discuss the Pre-Sentence Report with your lawyer
21 before you came to court here today?

22 DEFENDANT KOVAC: Yes, Your Honor.

23 THE COURT: Okay. Very good. There are no
24 objections to the report.

25 The guideline range in the Plea Agreement and the

1 guideline calculation arrived at by the probation officer are
2 the same.

3 Are there any issues you want to state with regard to
4 the Pre-Sentence Report only at this time, Mr. Korn, in terms
5 of computations or corrections or anything else?

6 MR. KORN: No issues, Your Honor.

7 THE COURT: Okay. Mr. -- who's going to do this, is
8 it going to be -- Mr. Mulcahy, anything on the --

9 MR. MULCAHY: I am.

10 THE COURT: Okay.

11 MR. MULCAHY: Yes, Your Honor, there are no
12 objections on behalf of the government.

13 THE COURT: All right. Very good. Then the Offense
14 Level is 43, Criminal History Category is I. The guideline
15 range at that level calls for a life sentence. And the factual
16 findings of the probation officer in her report will be
17 considered the factual findings of the Court for purposes of
18 this sentencing only.

19 Again, I have too much paper here so just let me make
20 a couple of comments.

21 The issue of forfeiture has been resolved.

22 The issue of restitution is open and I'll hear
23 argument on that as need be.

24 There are no factual or legal disputes.

25 There's no grounds for a departure, but I have read

1 Mr. Korn's excellent and lengthy sentence memo of approximately
2 14 pages. That discusses the 3553(a) factors and it also
3 contains exhibits, a number of exhibits, some of which are 10
4 pages and longer, and those support a -- a request for a
5 variance to 20 years as well as mitigating factors and other
6 materials.

7 So with that in mind, I think we're ready to go to
8 sentencing on Mr. Kovac. And for that purpose -- and -- and I
9 want you to know, I read the sentencing memorandum. I read all
10 of the supporting materials. I've read the government's
11 sentencing memorandum which is specific to this defendant,
12 34 pages. Obviously I've heard from the victims. I think I've
13 considered the entire body of the case that I have available to
14 me.

15 And so with that in mind, without restriction but
16 bearing that in mind, Mr. Korn, if you'd like to make any
17 remarks on behalf of your client, Mr. Kovac, I'd be very glad
18 to hear them now. Go right ahead.

19 MR. KORN: Thank you, Your Honor.

20 Your Honor, the pain, the anguish, the suffering that
21 these defendants caused the minor victims in this case and
22 their families is beyond comprehension. I sat there and
23 listened to the statements of the parents, the letters that
24 were read, the statement of the minor victim, and I do not have
25 the words to express the sorrow that I felt.

1 But the nature and circumstances of the offense is
2 only one of the factors that this Court must consider in
3 fashioning a sentence that would be sufficient but not greater
4 than necessary to effectuate the purposes set forth in the
5 sentencing statute. This Court is bound by law to consider all
6 the factors that are set forth in the sentencing statute,
7 including, but not limited to, the history and characteristics
8 of the defendant. And this Court is mandated by the sentencing
9 statute to impose a sentence that is sufficient but not greater
10 than necessary to effectuate the objectives set forth in --
11 in -- in the statute, and the key here is sufficient but not
12 greater than necessary. And as I stated in my sentencing
13 memorandum, Your Honor, it is my position that a 20-year
14 sentence on Mr. Kovac, who is 49 years old, would be sufficient
15 and therefore just given all the circumstances of this case.

16 I have met with Mr. Kovac on numerous occasions and
17 he has expressed genuine remorse for the pain and anguish that
18 he has caused the minor victims and their families. He has
19 submitted a letter to the Court which I think sincerely
20 expresses the remorse that he feels. He stated to the Court
21 that he just cannot believe -- he stated to the Court in his
22 letter that he just cannot believe that he did what he did, and
23 he prays that somehow these families, these minor victims can
24 overcome what he did to them and somehow find a way to deal
25 with this and find a way to lead in his words a happy life.

1 Mr. Kovac has no criminal record of any kind.

2 He has an exemplary work history going back decades.

3 He has the love -- and -- and -- and the letters that
4 I attached to my sentencing memorandum will attest to the fact
5 that he has the love of his family who will be there during his
6 period of incarceration and will be there upon his release, if
7 this Court allows him to be released from prison, to help with
8 his rehabilitation.

9 He has stated to me over and over again and stated in
10 his letter that he wants to avail himself of every program,
11 every form of therapy that would be available to him to deal
12 with this illness and addiction. He knows that he is a sick
13 man and he wants to do whatever he can to overcome the illness
14 so that he does not harm anyone ever again.

15 I submitted a psychological report in which the
16 psychologist, Karen Wickline, administered numerous
17 psychological tests, and I think what is most important about
18 that, the most important conclusion of those tests and her
19 assessment of Mr. Kovac is that based on the results of her
20 evaluation, she concluded that Mr. Kovac would be a low risk of
21 re-offending, that his risk of recidivism would be extremely
22 low.

23 This is important because in -- in deciding what
24 sentence would be sufficient, one of the things that the Court
25 needs to consider is how long a sentence would I have to impose

1 on Mr. Kovac to make sure that he does not do this again, that
2 he does not harm any other children in the way that he harmed
3 these children? A 20-year sentence, and that is what I
4 suggested to the Court, would be a sufficient and just
5 sentence. A 20-year sentence on a 49-year-old person is a huge
6 sentence. And in lieu of the sincere remorse expressed by Mr.
7 Kovac and in lieu of the psychological report that determined
8 that he would be a low risk of recidivism, clearly a 20-year
9 sentence would ensure and be sufficient to prevent Mr. Kovac
10 from ever doing this again.

11 The government is requesting -- in its sentencing
12 memorandum the government requested a sentence of 50 years.
13 50 years for a 49-year-old male is a life sentence. And I am
14 asking this Court, I am urging this Court to consider all the
15 circumstances in the case, to consider the history and
16 character of Mr. Kovac and fashion a sentence that would allow
17 him at some point to be released from prison and show this
18 Court that he can rehabilitate himself, and that is his goal,
19 to rehabilitate himself while in prison, and to show this Court
20 that he, after 20 years, under the supervision of the Probation
21 Department on supervised release in which he can be required to
22 continue in therapy, which is what he needs, that he can be a
23 law-abiding citizen.

24 It would seem to me that if 20 years is sufficient
25 under all the circumstances of this case and all the purposes

1 set forth in the sentencing statute, if 20 years is sufficient
2 to do what Congress has mandated should be done with a
3 sentence, if 20 years is sufficient, then that would be a just
4 sentence because that is the key.

5 And it would be my position in light of the remorse
6 and -- and let me just say that the remorse is very important
7 in a case like this because, yes, a significant sentence will
8 motivate a person not to commit another offense, but in my
9 experience, in my life, I would say that the one thing that
10 really motivates a person, including myself, not to do
11 something again that they know is wrong and has hurt people is
12 how bad you feel inside for doing what you did. It is that
13 kind of pain that is etched into a person's brain that truly
14 prevents that person from committing the same act again. Mr.
15 Kovac has shown sincere and deeply felt remorse.

16 In view of all the circumstances, I would urge the
17 Court to impose a sentence of 20 years, which, again, I think
18 would be a sufficient and just sentence in view of all the
19 circumstances of this case.

20 Thank you.

21 THE COURT: Thank you very much, Mr. Korn. Thanks
22 for the hard work and service of your client, for taking the
23 appointment on behalf of the Court, and grateful for your words
24 and the arguments that you made.

25 Next, Mr. Kovac has the opportunity to address the

1 Court directly to say anything consistent with or in addition
2 to what Mr. Korn said on his behalf, and Mr. Kovac, I'd
3 recognize you for that purpose at this time. Go right ahead.

4 DEFENDANT KOVAC: Thank you, Your Honor.

5 I'll try to get through this as best as I can. This
6 is hard. I first want to apologize to all of the victims and
7 also their families as I'm deeply saddened and ashamed in my
8 inappropriate and disgusting behavior and actions towards the
9 victims. I took advantage of their -- of their vulnerability
10 and I took -- and I took their innocence away from them. I was
11 being selfish and was only thinking about myself.

12 I didn't realize the impact of my actions or the
13 consequences and the effect that I had on all of the victims.
14 I just want to let them know that I pray every night for them
15 and ask God to look over them and to protect them and -- and to
16 keep them safe and to comfort them and their families through
17 this difficult time.

18 And none of these victims should have ever had to go
19 through something like this, and I felt like I've taken a very
20 precious piece and part of their life away from them. This has
21 been some of the happiest times of their lives, and I stripped
22 them of that and I made it to be the worst times of their
23 lives, and they -- I can never give that back to them and I'm
24 so sorry for that.

25 After listening to the victim impact statements and

1 the -- and the emotion from their parents and the anger and to
2 see what I did to those victims, I know I have put enormous
3 amount of the damage on them and I realize that and I regret it
4 to the day and I have to live with that forever and ever and
5 I'll never forget it.

6 I just want to let them to know that I am truly,
7 truly sorry from the bottom of my heart, and I just pray and
8 hope in time -- because I see that they've got a strong, loving
9 family and they're going to get a lot of support and help
10 through therapy, their counseling -- that they can hopefully
11 one day return and have a normal life again. And I just want
12 to reiterate how deeply sorry and remorseful I am for my
13 egregious actions.

14 Thank you, Your Honor.

15 THE COURT: Okay. Thank you very much. Appreciate
16 those sincere words.

17 Mr. Mulcahy, on behalf of the United States, you have
18 the right to speak to the appropriate sentence on behalf of the
19 People of the United States or any other factors under the
20 statutes and guidelines that you'd like to address at this
21 time. Go right ahead.

22 MR. MULCAHY: Thank you, Your Honor.

23 I appreciate that the Court has reviewed the
24 sentencing memoranda in this case, heard from the victims
25 today, read their letters. And while I won't venture to repeat

1 everything that was written because I know Your Honor has read
2 them, I would take this opportunity to highlight a couple of
3 facts about this group and about Mr. Kovac in particular for
4 the Court to consider in fashioning an appropriate sentence in
5 this case.

6 As we start with the nature and circumstances of the
7 offense, this group of men, this -- have all pled guilty to a
8 crime that we call child exploitation enterprise, and it is an
9 enterprise by any definition of that word. This group was
10 organized, they were rule-bound to one another, so much so that
11 they actually wrote their rules out to share with each other,
12 they strategized together.

13 They played different roles, and that's important
14 because what they did was identified one another's strengths.
15 One individual might be a good talker while the other is
16 charming so that the girls may follow him to this chat room.
17 Still others are more computer savvy so they were more adept at
18 starting a website, a website dedicated solely for this group,
19 what we've identified as Website B, which ran very similarly to
20 Website A. They started that Website B so that they could
21 continue their hunt of these girls.

22 What also is important, Your Honor, is their strategy
23 sessions. You can imagine each of these defendants sitting in
24 front of multiple computer screens having different windows
25 open, each window representing a chat room of a little girl who

1 came and thought she was talking to men -- to boys her age.
2 All the while each one of these men were appearing in a Skype
3 chat just among themselves knowing they were -- there were
4 other men, grown men just like they in that chat room trying to
5 convince or trying to strategize how to best convince these
6 girls to undress and masturbate on camera. These girls showed
7 up alone without any support and these men showed up together.

8 And to say that they're an enterprise also is
9 important because of the roles that they played. I talked
10 about the roles they played with the girls, but also important
11 for an enterprise is when one individual can't make it to work
12 that day, couldn't make it to the enterprise sessions those
13 nights, they had backup. They recorded these videos for one
14 another and shared them so that if somebody went on vacation or
15 was at work or otherwise couldn't attend, he could trust his
16 confederates, he could trust his friends to do his bidding for
17 him to get this ultimate win as they would call it.

18 So when I think about this enterprise, we think about
19 how this group managed to work together for all of these years
20 and the wild success that they had with victims over a hundred,
21 I notice a theme running through the defendants' memoranda, and
22 that theme is -- is understandable. It's trying to find a
23 comparison. This crime is so outrageous and so large, child
24 exploitation enterprise crimes are not charged very often in
25 this country, and, in fact, in our office this is, by my count,

1 the third and the second of which that relates to Website B.

2 So these are rare cases. And as a result of them
3 being rare cases, I recognize and appreciate counsel attempting
4 to try to reach for some type of comparison, and where they've
5 all landed, Your Honor, is on child pornography crimes. And
6 that's a good place to land as a defense attorney because child
7 pornography crimes, at least the most baseline of crimes,
8 receipt, possession, distribution, are under somewhat of
9 attack. They are fertile ground for debate about what the
10 appropriate sentences should be in those cases.

11 But it's a false comparison. It doesn't work in this
12 case because child offenses don't run like this enterprise ran.
13 Judge, the apt comparison in this case is an organized crime
14 case. This is a gang case. Just like organized crime, these
15 are folks who work together. They have disproportionate power
16 vis-a-vis their victims as they run together as grown men three
17 times the age of their victims, their victims not knowing that
18 they're working together collaboratively with their degrees,
19 with their experience, with their life experience, while these
20 kids are trying to find their way in the world, and they
21 overcome the will of these kids.

22 And so the comparison here, Judge, is not to child
23 pornography crimes, which maybe there's a day and a time for a
24 healthy debate about those, but this is an enterprise, this is
25 a gang, this is an organized crime case.

1 And even in that genre of cases, these men stand out.
2 I told the Court that child exploitation enterprise was rarely
3 charged in this country. It's not rarely charged because
4 prosecutors are afraid to charge it. It's rarely charged
5 because groups like this are rare. They stand apart based on
6 their size and scope.

7 In this courtroom today, Judge, there are six men.
8 Two others have recently been arrested and will face charges
9 related to the same scheme. There are a half dozen more, Your
10 Honor, littered throughout the world that we continue to
11 pursue. This is a large group. So the size of the group is
12 big. The scope of the group is big. It lasted for years on
13 multiple websites, the only theme being this Skype chat, these
14 series of Skype chats that these men engaged in.

15 And they also stand apart based on the child
16 exploitation that they sought. As the government tried to give
17 some, and it was a sliver of evidence that we had, and as not
18 to overwhelm the Court with evidence, we provided just a sliver
19 of the chats between these defendants and these victims. And
20 the theme that seemed to grow is that the sexual depravity that
21 these men asked these kids to engage in grew. It wasn't
22 enough to show your breasts, it wasn't enough to show your
23 vagina, it wasn't enough to masturbate. They wanted more and
24 more depraved images: urination, bestiality, getting a friend.
25 It was never enough.

1 So what about Mr. Kovac? As we look at Mr. Kovac in
2 particular and where he sits in this group, his volume was
3 remarkable. As the government wrote in its sentencing memo and
4 as it has in its slide before the Court, more than 48,000 child
5 exploitive images and videos. That's 900 hours of content.

6 I told the Court about the Skype chat. He made more
7 than 15,000 entries to these men. They were his friends, they
8 were his hobby.

9 His conduct lasted six years.

10 And unlike most of these men, there's only one other
11 in this group that's like him, he was in two different groups.
12 To say it in another way, Mr. Kovac wasn't satisfied with the
13 more than hundred victims resulting from the Skype Group. He
14 needed another group because he wanted more victims.

15 The number of logins that he had from Website A
16 amounted to 14 times each and every day. By his own admission
17 he spent hours a day every day on Website A.

18 So that's the volume. And while that's bad enough,
19 the content is shocking: urination videos; bestiality videos;
20 infants and toddlers; masturbation with objects; his role in
21 the group as a talker, as a looper, as a moderator; and the
22 words he said about these girls, they're shocking.

23 So when we think about the nature and circumstances
24 of this offense, Judge, we can't think solely of this group or
25 solely of Mr. Kovac. We also must consider the victims in this

1 case. And I know the Court has read those sentencing
2 memoranda. I know the Court has heard the victims today and
3 paid close attention. And I can't improve on the words they
4 wrote and I won't try to, but I would underscore this. These
5 victims' lives are going to be divided in two parts: before
6 they met this men -- these men and after they met these men.
7 These men brought our victims a lifetime of hard conversations.
8 Every boyfriend they make, their spouse, their children, their
9 loved ones, their friends, to really know these victims, they
10 are probably going to have the conversation about these men.

11 The victims don't include just these girls; their
12 parents as well. Your Honor heard from them, and I thought a
13 theme that ran through the -- the -- what the Court heard today
14 as well as the letters was this guilt, a lot of them blaming
15 themselves. You heard from Minor Victim 8 and Minor Victim
16 15's father talking about how they thought that they were safe.
17 The relationships with wives has changed. The relationship
18 with husbands have changed. The relationships with these
19 children, these victims has changed. A lot of these parents
20 identified themselves as being failures.

21 But the last thing I want to say about the nature and
22 circumstances of the offense, Judge, is that the victims here
23 were heartfelt, the victims here were sincere, and they offered
24 to the Court their sincere words of how this case affected
25 them. But for every victim that spoke today, there are ten

1 that did not speak today because it was too hard, perhaps
2 because the FBI has not found them. Some just don't want
3 anything to do with this case because the pain is too great.
4 So I would ask the Court do consider not just the words that it
5 heard today but the words that it did not hear today.

6 So what about Mr. Kovac and the nature -- and I agree
7 with Mr. Korn, there are few matters where he and I are in
8 agreement. One is that this Court can't just look at the
9 nature and circumstances of the offense. If it did, this would
10 be a very easy sentencing hearing because it is unmatched, the
11 nature and circumstances of the offense.

12 But when we turn to the history and characteristics
13 of the defendant, what do we make of Mr. Kovac? What's been
14 offered is a consistent work history. And I mean no disrespect
15 to Mr. Kovac, but having a job does not render one worthy of a
16 downward variance. That should be the minimum we expect of
17 folks. And even this man with his consistent job history
18 acknowledged that he accessed Website A while at work.

19 What about the letter that he wrote? I agree with
20 Mr. Korn that there were portions of that letter that were
21 sincere, but there were two things that stood out to me, Your
22 Honor, as I read that letter. And what stands out is when Mr.
23 Kovac says twice, "I didn't realize the impact my actions had
24 upon these girls. I didn't understand the enormous
25 consequences." Color me skeptical. These girls openly talked

1 about suicide, about cutting, about depression. In his
2 psychological report the evaluator suggests that Mr. Kovac
3 himself had talked about depression and suffering from that.
4 He ought to know what it looks like. And it wasn't a mystery,
5 these girls did not keep it from these offenders. So I reject
6 this idea that he didn't understand. Maybe the whole scope,
7 sure, but they knew these girls were suffering.

8 And when they identified these girls as suicidal or
9 cutting, the object was not to save them or leave them alone
10 and say maybe we ought to move on to the next one. Instead, it
11 was "Let us be nice to these girls, let's build them up, let's
12 give them compliments so that we can get them to do what we
13 want them to do all along." It was a means to an end, Judge.

14 He also talks about the fact that he lacks criminal
15 history, and I think that generally that is an important point.
16 It is something that we often look at with favor. I ask the
17 Court to counterbalance the fact that he's never been before a
18 judge and never suffered a criminal conviction but that for six
19 years of his life he went to bed every night and he woke up
20 every morning in the midst of committing a crime, and not just
21 any crime, an epic crime.

22 So the idea that he has no criminal history, that
23 this is somehow equivalent to a man who has a blip in the radar
24 of an otherwise lawful life, that this is aberrant behavior,
25 one-time deal, I think should be wholly rejected. This man

1 does not stand here like others who said, "I committed a crime,
2 I made a mistake but I otherwise lived a law-abiding life." He
3 has lived a lawless life for the past half a dozen years.

4 Your Honor, next the guidelines and the -- actually,
5 I'm sorry, Your Honor. The last thing on history and
6 characteristics of the offense, the only other thing that I
7 think points mildly in Mr. Kovac's favor is this evaluation and
8 it calls him a low risk of recidivism, and I think it's fair to
9 push back on a couple of points there.

10 First and foremost, Mr. Kovac apparently told the
11 evaluator that his time on Website A lasted approximately three
12 years. That's on page 5. That's not true. It lasted six
13 years.

14 Only one group is mentioned throughout the evaluation
15 report. Leads me to believe that the topic that the evaluator
16 believed that she was evaluating Mr. Kovac for was his
17 participation in the Skype Group, but he was a member of two
18 groups.

19 He denied to the evaluator that he had a sexual
20 interest in prepubescent girls, and while the evaluator at
21 least acknowledged that there were some images of prepubescent
22 girls, it did not say anything about whether those images were
23 infants or toddlers, which there were some on his computer as
24 well.

25 So these omissions, coupled with the idea that a man

1 who spent every single day, by his own admission, without
2 stopping -- the only time he stopped was when the FBI showed
3 up -- spent every day of his life, adult life, manipulating
4 young girls, that he doesn't pose a risk of re-offending is
5 frankly just not worth the paper it's written on.

6 And we ask the Court to consider the facts that were
7 omitted and just its common sense and suggest -- because Mr.
8 Kovac, the last thing he said about that evaluation or in that
9 evaluation was that he didn't think that his Internet use
10 caused any problems in the rest of his life, another conclusion
11 that doesn't make any sense. And I think the entirety of the
12 psychological report makes very little sense and should be
13 given very little weight.

14 And as we look to the last couple of factors, Your
15 Honor, and I'm almost done, I appreciate the Court's time, are
16 the nature -- excuse me, the guidelines and the types of
17 sentences available. 3553 talks about the types of sentences
18 available, and Mr. Korn has asked for and every defense
19 attorney has asked for 20 years in prison for this case.

20 What that equates to, Your Honor, is a request to
21 find these men, Mr. Kovac in particular but all of these men,
22 as the least culpable offenders to commit child exploitation
23 enterprise. Congress has decided that anyone, no matter how
24 big or how small the enterprise is, who commits this crime of
25 child exploitation enterprise ought to get 20 years. That

1 means the offenders who are a group of let's say four, and
2 there are two victims, and for two days they convinced these
3 girls to take pictures of themselves and send them, that if
4 that is the universe, that is a child exploitation enterprise,
5 and Congress has said those men deserve 20 years.

6 These men are not the least culpable offenders to
7 commit child exploitation enterprise; they are among the worst.
8 More than a hundred victims, 10 to 15 offenders, years of work,
9 multiple websites and ongoing chat discussion where they
10 strategize. Congress said 20 years for the baseline least
11 culpable, but for the most culpable they allow a sentence of up
12 to life in prison. Congress I submit to the Court had this
13 group in mind. The guidelines themselves call for life.

14 The last factor, Your Honor, is to avoid unwarranted
15 sentencing disparities, and in here it's a fair question to
16 pose to the government, why is Mr. Kovac -- why is the request
17 50 years for Mr. Kovac, which is the highest among his
18 confederates? Mr. Kovac, unlike these men here, did not
19 cooperate with the government. There is some dispute about
20 whether he offered to, and I agree that he offered to cooperate
21 but far too late, closer to the plea date when the government
22 had its case fairly well known. He did provide information at
23 the time of his arrest, that is true. But his true cooperation
24 as we know it, substantial assistance, he stands apart from
25 these men because these men sat down and he didn't.

1 More importantly, Your Honor, Mr. Kovac, unlike most
2 of the defendants here, was involved in two groups and not just
3 one. And unwarranted sentences disparities do not mean Mr.
4 Kovac versus Mr. Eisley or Mr. Dominguez or Mr. Massey. It is
5 against other offenders who commit the same crime with the same
6 criminal history. That's what that factor means.

7 And as I indicated earlier, child exploitation
8 enterprise is the kind of crime that isn't charged very often
9 because it doesn't happen very much and it certainly doesn't
10 happen to this level. A sentence of 50 years in this case
11 would not be an unwarranted sentencing disparity against the
12 men that sit here or against child exploitation enterprise
13 defendants who are at large. It is less than a year for every
14 victim.

15 Your Honor, for all the reasons that we've stated,
16 for everything that the victims said and for those who couldn't
17 speak today, the government asks for a sentence of 50 years.

18 THE COURT: Okay. All right. Thank you very much,
19 Mr. Mulcahy.

20 Let me ask a quick question. I think I glossed over
21 or at least stated that there wasn't going to be an issue with
22 restitution, but indeed you did arrive in your Plea Agreement
23 at a \$5,000 payment to each victim, and whereas that -- it's
24 hard to determine what the exact amount would be based on the
25 uncertainty of what was lost or at least the inability to put a

1 monetary figure on it, the simple fact is that any legal
2 dispute or factual dispute about the amount is irrelevant
3 because you've all agreed on a \$5,000 payment per victim for
4 each defendant, is that right?

5 MR. MULCAHY: That's right, Your Honor. The total
6 ends up at \$235,000.

7 THE COURT: All right. Okay. So restitution is
8 going to be \$235,000 without objection from either party.

9 No fine, no costs of incarceration due to the
10 inability to pay. Forfeiture has been taken care of.

11 So I will address the sentence, give the lawyers both
12 an opportunity to object and then state the final sentence.

13 The --

14 MR. KORN: Your Honor?

15 THE COURT: Yes.

16 MR. KORN: If I may, and I apologize, but I would
17 like to respond to one issue that Mr. Mulcahy raised, if I may.

18 THE COURT: Okay.

19 MR. KORN: I feel compelled to say that he raised an
20 issue as to Mr. Kovac's cooperation.

21 THE COURT: Right.

22 MR. KORN: And let me say that Mr. Kovac at the time
23 of his arrest, this is like within hours after he was arrested,
24 he agreed to talk with the FBI agents. He gave a two-hour
25 recorded statement in which he repeatedly said that if there's

1 any way he could offer some kind of assistance to the
2 government to further their investigation, he was willing.
3 They asked him, "Would you be willing to allow us to assume
4 you're online identity?" He said yes. "Would you be willing
5 to allow -- would you advise us of your passwords and
6 everything else?" He informed the government that he would.
7 And as I said, he repeatedly told the agents that whatever he
8 could do he was willing to do.

9 There was a -- a -- a -- a reference in Mr. Mulcahy's
10 statement to the Court that everybody else sat down and was
11 debriefed by the government but Mr. -- Mr. Kovac didn't and
12 somehow that's a reflection on him. Let me say that right from
13 the time I met Mr. Kovac, he has advised -- he told me that he
14 may not have because he doesn't know the other participants by
15 name, he's not sure what information he has that would be
16 helpful to the government, but he has repeatedly asked me to
17 have the agents come and debrief him to see if there's anything
18 that he would know that would help them with their
19 investigation.

20 I on multiple occasions have approached the AUSAs in
21 this matter and said, "My client would like to be debriefed.
22 Are you interested in having the agents" -- and this is early
23 on in the case -- "Are you interested in having the agents talk
24 to him?" And they said, "Well, we're not sure at this point
25 whether we want to debrief him, but if we do, we'll let you

1 know." And I repeatedly throughout the case asked them to meet
2 with him, because they certainly have more information about
3 the case than I did, and see whether or not Mr. Kovac would
4 have any information that would help them with their
5 investigation, and they repeatedly say, "At this time the
6 agents don't think it would be helpful to meet with him."

7 So if -- if cooperation is an issue, he has bent over
8 backwards to cooperate to the best of his -- his ability with
9 the government in -- in furtherance of the investigation.

10 THE COURT: If he offered to cooperate from the
11 get-go, Mr. Mulcahy, but didn't because the government rejected
12 his efforts, whatever, why should he get 50 as opposed to
13 somebody who offered to cooperate and -- and gave some -- some
14 information? Because we're talking about life sentences across
15 the board, and it seems to me that if we're going -- first of
16 all, everybody wants a departure or at least a variance, not
17 only the defendants but the United States, and I think the
18 United States is driven by -- I don't want to say -- in fact, I
19 probably shouldn't get into what I believe the government's
20 sentencing recommendation is driven by.

21 But the question I would have is if we're talking
22 about life sentences across the board, why do we vary for some
23 as opposed to others? I mean there's a lot of distinctions
24 within the familial, medical, psychological and other
25 backgrounds of -- of these defendants. What we do know is that

1 everybody did the same thing and no one had a criminal record.
2 What would distinguish about who should get more of a departure
3 than less from the recommendation of the government, Mr.
4 Mulcahy?

5 MR. MULCAHY: Yes, Your Honor. All recommendations
6 are based in some measure on cooperation, in some measure on
7 some of the other factors that Your Honor identified: familial
8 issues, things like that.

9 But as to Mr. Kovac in particular, it's -- it's --
10 it's certain that he offered to cooperate very late in -- it
11 wasn't throughout. When he first got here -- when he -- when
12 he was in Nevada, he offered to give a password. Everything
13 that Mr. Korn said about his behavior in Nevada is accurate.

14 He came here. At first there was a delay in whether
15 he wanted to meet with us, and by the time he came through to
16 say, "Yes, I want to meet with you," we had met with everybody
17 and we felt like our case was solid, we didn't need his
18 assistance.

19 And more importantly, Your Honor, even if he had sat
20 down with us, that the recommendations that we're making here
21 are based on the substantial assistance provided. So some of
22 these men have been given a lesser recommendation because they
23 actually moved the needle, they helped the case along, while
24 others got a very little, if any, of a reduction based on their
25 cooperation because they did not move the needle. But --

1 THE COURT: Hold on. I'm sorry to interrupt you. I
2 understand what you're saying. I guess I should ask explicitly
3 why -- why doesn't -- why doesn't the government recommend a
4 life sentence for this individual then?

5 MR. MULCAHY: Because we wanted to put it in a term
6 of years for a couple of reasons. One reason to put it in a
7 term of years is so there could be -- more accurately show the
8 waterfall effect of the different recommendations. In other
9 words, where Mr. Kovac sits based on all of his circumstances
10 of the offense based on his conduct versus where the next
11 individual sits and the next individual sits, sits.

12 So the idea was to put up a set term of years. For
13 Mr. Kovac it is -- and I don't necessarily disagree with Mr.
14 Korn, that it is essentially a life sentence because with good
15 time and credit, he gets out at about the age of 90. But we
16 wanted a term of years for -- for one reason, which is to show
17 a consistent pattern, which we know recommendations for each
18 defendant.

19 THE COURT: Yeah.

20 MR. MULCAHY: As well as with a term of years, Your
21 Honor, he can earn good time credit and have that -- not only
22 that ability to get good time credit but that motivation to get
23 good time credit such that his behavior would be better in the
24 Bureau of Prisons. So that's the other reason why a term of
25 years is preferable than just a straight life sentence in this

1 case.

2 THE COURT: That also means -- that also means that a
3 younger member of the enterprise gets a break randomly because
4 of the age in which they entered the enterprise.

5 MR. MULCAHY: I don't know if it's a break, but
6 yes --

7 THE COURT: Why -- why -- does Mr. -- Mr. Kovac gets
8 a life sentence because he entered the enterprise when he was
9 40, and someone else might have entered the enterprise when
10 they were 20 and they get presumably, life expectancy being the
11 same, much less time in prison? See what I mean?

12 MR. MULCAHY: I do. And I think the argument if the
13 defendant was 20 is his brain hasn't developed, and so he
14 shouldn't be punished like a -- like a person who's been
15 through the life experience like Mr. Kovac has. All of these
16 men are at least in their 30s or 40s, and our recommendation is
17 not necessarily tied to age but the conduct that they
18 committed.

19 And Mr. Kovac's conduct, being involved in two
20 groups, being constantly in these groups, never taking a break,
21 having multiple roles and ultimately not providing substantial
22 assistance, is what led us to the -- to the 50-year
23 recommendation. I think he sits apart from most of these men
24 except for the men who we've recognized in our sentencing memo
25 would otherwise deserve a life sentence but cooperated to such

1 a degree that we feel the need to file a 5K in this case.

2 THE COURT: Either one of you can answer this. When
3 he was arrested and offered to speak about his -- his activity
4 in -- in Nevada, was he counseled or represented by a lawyer at
5 that time? I'm sensing not.

6 MR. KORN: He was not represented by an attorney,
7 Your Honor. He was read his Miranda Rights. He was not -- he
8 waived his Miranda Rights. He waived his right to an attorney
9 and he was not represented by an attorney.

10 And I do have to say, Your Honor, if I may, and I
11 don't want to belabor this point, but Mr. Mulcahy said it was
12 late in the game when he came forth and said, "I want to be
13 debriefed. We had already debriefed everybody else." Mr.
14 Kovac through me, I spoke with Assistant U.S. Attorney Russo at
15 the arraignment on the indictment and I said that Mr. Kovac
16 would like to be -- would be willing to be debriefed to see
17 whether or not he has any information that will be helpful to
18 the government. This was at the arraignment on the indictment.
19 And Ms. Russo -- Russo said that she would talk to the agents
20 and see if they wanted to meet with him.

21 So right from the very beginning -- and I'm not
22 saying he had substantial assistance, but I'm saying right from
23 the very beginning he wanted to meet with the government and
24 give them whatever information he had so they could determine
25 whether or not it would be useful to their investigation.

1 MS. RUSSO: Your Honor, can I respond since he's --

2 THE COURT: No, I -- I don't think we need to get
3 into any more of this.

4 MS. RUSSO: All right.

5 THE COURT: All right. The Court will state the
6 sentence and give both lawyers an opportunity to reject.

7 I personally believe the conduct in the case calls
8 for a -- a sentence of life imprisonment with no chance of
9 parole. I think that Congress on behalf of the United States
10 people has expressed very clearly that individuals who engage
11 in child exploitation enterprise are so dangerous and so
12 criminal that they should not be on the street. By and large
13 and philosophically I share that view. Need I have my view
14 reinforced, it would certainly be through the victim impact
15 statements that I've received in the past weeks and in court
16 today.

17 I, however, have one simple motive driving me to
18 grant a downward variance, which is that I believe part of my
19 obligation as a judge is to not sustain or perpetuates --
20 perpetuate the rights of -- of victims per se but to be fair to
21 both parties of the dispute. And my personal view, in looking
22 at -- at both punishment, protection of the community and
23 deterrence, all of which I believe support the imposition of a
24 life sentence, is very simply mercy and an opportunity for an
25 individual with no prior criminal record to have some

1 opportunity to look to the future and -- and some opportunity
2 at least finishing life in -- in free circumstances, and -- and
3 I kind of gathered that that was behind the government's
4 recommendations below the life term for which they give.

5 So, you know, very simply put, I think a life
6 sentence is -- is -- and by the way, I would like to say that
7 the characteristic or at least the characterization of the
8 offense is correctly given by the United States. These are not
9 child pornography production or possession crimes. These are
10 crimes of organized criminals, intelligent, aberrant and the
11 worst of -- of the worst, and this is not a simple crime of
12 possessing, taping. And what's sad about this is that it --
13 it -- it -- well, that's all I have to say.

14 Pursuant to the Sentence Reform Act of 1984, the
15 Court, having considered the sentence guidelines and factors
16 contained in 18 USC, Section 3553(a) that I just went over,
17 will hereby commit the defendant, Terry Kovac, to the custody
18 of the Bureau of Prisons for a term of 444 months.

19 It's further recommended that the defendant be
20 designated to an institution with a comprehensive sexual
21 offender treatment program.

22 Upon release from imprisonment, the defendant shall
23 be placed on a supervised release term of five years.

24 The defendant must pay a special assessment of a
25 hundred dollars, that'll be due immediately, and a Justice For

1 Victims of Trafficking Act assessment of \$5,000.

2 The Court is aware that the parties agreed to a
3 restitution amount of \$5,000 per identified victim, and the
4 Court will impose therefore a restitution amount of \$235,000.
5 The Court waives any interest, penalties and fees that might --
6 may -- might accrue.

7 The Court waives the imposition of a fine, the costs
8 of incarceration, the costs of supervision due to the
9 defendant's lack of financial resources.

10 While in custody, the defendant shall participate in
11 the Inmate Financial Responsibility Program. The Court is
12 aware of the requirements of the IFRP and approves the payment
13 schedules of the program and hereby orders the defendant's
14 compliance.

15 Mandatory drug testing is suspended because I believe
16 that the defendant poses a very low risk of future substance
17 abuse.

18 While on supervision the defendant shall abide by the
19 standard conditions adopted by the U.S. District Court for the
20 Eastern District of Michigan and he must also comply with the
21 following special conditions. Due to the nature and
22 circumstances of the offense, the following extensive special
23 conditions are ordered:

24 Number one, the defendant shall comply with the
25 requirements of SORNA, that's the Sex Offender Registration

1 Act, 42 USC, Section 16901, 16901. That will be directed by
2 the probation officer, the Bureau of Prisons and any state Sex
3 Offender Registration Agency in which he resides, works as a
4 student or is convicted of a qualifying offense.

5 The defendant shall successfully complete any sex
6 offender diagnostic evaluation, treatment and counseling
7 program and polygraph examination as directed by the probation
8 officer.

9 Reports pertaining to sex offender assessments,
10 treatment and polygraphic examination shall be provided to the
11 probation officer as directed by the Court.

12 The defendant shall pay all or part of the cost of
13 diagnostic evaluations, treatment or counseling programs and
14 polygraphic examinations based upon the ability to pay.

15 The defendant shall be required to submit to periodic
16 polygraphic testing at the discretion of the probation officer
17 as a means to ensure compliance with the requirements of
18 supervision or treatment. No violation proceedings will arise
19 on the results of the polygraphic examination. Based on the
20 defendant's ability to pay, he shall pay the cost of the
21 polygraph examination in an amount determined by the probation
22 officer.

23 The defendant shall not associate with minor children
24 under the age of 18 except in the presence of a responsible
25 adult who's aware of the nature of the defendant's background

1 and the current offense without prior approval of the probation
2 officer.

3 The defendant may have unsupervised contact with his
4 or her own children at the discretion of the probation officer.

5 He shall not frequent places where children
6 congregate on a regular basis such as, but not limited to,
7 school grounds, playgrounds, child toy stores, video arcades
8 and things of that nature.

9 The defendant shall notify anyone they date or marry
10 with a minor child under the age of 18 of their conviction.

11 The defendant shall not purchase, sell, view or
12 possess images in any form of media or live venue that depict
13 pornography, sexually explicit conduct, child erotica or child
14 nudity. The defendant shall not patronize any place where such
15 material or entertainment is available.

16 The defendant shall have employment pre-approved by
17 the Probation Department.

18 The defendant shall not be employed at or participate
19 in any volunteer activities that involve contact with minors
20 under the age of 18 or adults with disabilities without prior
21 approval of the probation officer.

22 The defendant shall have all residences pre-approved
23 by the Probation Department.

24 The defendant shall not provide care or live in a
25 residence where children under the age of 18 or adults with

1 disabilities shall also reside without prior approval of the
2 probation officer.

3 The defendant shall participate in the Computer/
4 Internet Monitoring Program administered by the Probation
5 Department. He shall abide by the program agreement in effect
6 at the time of the supervision and comply with any amendments
7 to the program during the term of supervision. Due to the
8 advances in technology, the Court will adopt the amendments of
9 the program as necessary.

10 For the purpose of accounting for his person,
11 residence, computer and/or vehicle, the defendant shall submit
12 to a search conducted by the Probation Department at a
13 reasonable time and manner. He must inform any other residents
14 that the premises may be subject to a search warrant pursuant
15 to this condition.

16 He shall provide the probation officer with access to
17 any requested financial information and billing records.

18 The defendant shall submit his person, residence,
19 office, vehicle, papers, business or place of employment or any
20 property subject under his control to a search. Search must be
21 conducted by Probation at a reasonable time and in a reasonable
22 manner based upon the reasonable suspicion of contraband or
23 evidence of a violation of a condition of release. Failure to
24 submit to such a search may be grounds for revocation. The
25 defendant shall warn any residents that the premises may be

1 subject to search.

2 And the defendant shall not have any contact,
3 directly or indirectly, with any victim or witness in the
4 instant offense unless approved by the probation officer.

5 In light of the restitution, the defendant shall not
6 incur any new credit charges or open additional lines of credit
7 without the approval of the probation officer unless the
8 defendant is in compliance with the payment schedule.

9 The defendant shall provide the probation officer
10 access to any requested financial information.

11 He has to make monthly installment payments on any
12 remaining balance of the fine or a special assessment at a rate
13 and schedule recommended by the Probation Department and
14 approved by the Court.

15 That will be the sentence of the Court. Any
16 objections from Mr. Korn?

17 MR. KORN: No objections, Your Honor.

18 THE COURT: Any objections from Mr. Mulcahy?

19 MR. MULCAHY: No, Your Honor.

20 THE COURT: Okay.

21 MR. KORN: Your Honor, if I may.

22 THE COURT: Yes.

23 MR. KORN: Could the Court -- I would ask the Court
24 to recommend that -- and I -- and I understand it's just a
25 recommendation, but that recommend that the Bureau of Prisons

1 place Mr. Kovac in a prison that has a sexual offender
2 treatment program. And I know one of the ones, if he meets the
3 qualifications, and I don't know whether he does, but one of
4 the ones that I know that has programs like that is FCI Elkton,
5 but I would certainly ask the Court to make that
6 recommendation.

7 THE COURT: I'll endorse that completely. I think
8 the defendant would benefit from treatment. He wants to
9 achieve something there. And I would recommend he be placed at
10 a facility with a sex offender treatment facility, and if
11 Elkton's the one, that's -- that's -- that's something I would
12 endorse.

13 The sentence as stated earlier without objection will
14 be imposed.

15 The defendant has waived the right to appeal both his
16 sentence since it's below that called for in the Plea Agreement
17 and the conviction itself as part of the plea. Mr. Kovac, the
18 waivers, the sort you signed are generally enforceable. If you
19 don't think yours is, you can take that up directly with the
20 Court of Appeals.

21 The defendant will be remanded to the custody of the
22 marshal for service of his sentence.

23 Both parties have copies of the Pre-Sentence Report.
24 Final copies will be sent to the Bureau of Prison and the
25 Sentencing Commission. Any other copies are to be kept

1 strictly confidential.

2 Anything else on this defendant, Mr. Mulcahy?

3 MR. MULCAHY: Yes, Your Honor. Pursuant to the terms
4 of the Plea Agreement, the government moves to dismiss
5 Counts 1 -- 2 through 6 of the indictment.

6 THE COURT: That's granted without objection.

7 Anything else from you, Mr. Korn?

8 MR. KORN: Nothing further, Your Honor. Thank you.

9 THE COURT: All right. Good luck to you, Mr. Kovac.

10 DEFENDANT KOVAC: Thank you, Your Honor.

11 THE COURT: You're welcome.

12 MR. KORN: Thank you.

13 THE COURT: All right. You're welcome.

14 (Proceedings concluded at 12:12 p.m.)

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1 Detroit, Michigan

2 Tuesday, July 17, 2018

3 — — —

4 (Proceedings commenced at 12:12 p.m., all parties
5 present)

6 THE COURT: Let's go -- Mr. Massey is with Mr. --
7 with Mr. Satawa, is that right?

8 MR. MULCAHY: No, Your Honor, it's Mr. Dominguez.

9 THE COURT: Let's go with Mr. Dominguez, Mr. Massey
10 and Mr. Robinson. Can we do that, in that order?

11 MS. RUSSO: Mr. -- I'm sorry, Mr. Dominguez and then
12 Mr. Robinson and then you said Mr. Massey?

13 THE COURT: I said the opposite, but either way. Mr.
14 Dominguez, Mr. Massey and Mr. Robinson, either -- either --
15 either or is fine with me.

16 MS. RUSSO: That sounds good. If we could do Mr.
17 Robinson after Mr. Dominguez, that would be great.

18 THE COURT: That's fine. Okay. All right. Next
19 case is USA versus Felipe Dominguez-Meija. Mr. Mulcahy and Ms.
20 Russo are here and Mr. Satawa is here as well.

21 Let me interrupt briefly. Linda, are you making one
22 transcript or are you doing separate...

23 (Brief discussion held off the record)

24 THE COURT: Okay. Thank you. I apologize for that
25 interruption.

1 And let me turn to Mr. Satawa and ask him and his
2 client to come up to the microphone and we'll get started.

3 Let me ask Mr. Meija, sir, have you had an
4 opportunity to thoroughly read the Pre-Sentence Report along
5 with your lawyer, and including any revisions that have been --
6 might have been made to it after it first came out?

7 DEFENDANT DOMINGUEZ-MEIJA: I have, Your Honor.

8 THE COURT: Okay. All right. Pull that microphone a
9 little -- thank you. Okay. Very good.

10 As with the previous defendant, Mr. Kovac, there
11 appears to be no dispute as to the guideline range or the
12 probation officer's report. No objections were filed. And I
13 would ask you, Mr. Satawa, whether or not you'd like to make
14 any corrections, changes, or objections to the Pre-Sentence
15 Report at this time.

16 MR. SATAWA: No, Your Honor.

17 THE COURT: Okay. Thank you. Mr. -- or Ms. Russo,
18 how about you?

19 MS. RUSSO: No, Your Honor. Thank you.

20 THE COURT: Okay. Then the Pre-Sentence Report will
21 be accepted by the Court. The factual findings of the officer
22 will be those of the Court for purposes of this sentence only.

23 The Offense Level is 43, the Criminal History
24 Category is I. The guideline range contemplates a life
25 sentence as does the Plea Agreement. Again, both sides offer

1 in their sentencing memoranda requests for variances, which I
2 am going to consider.

3 The issue of restitution, as I mentioned with Mr.
4 Kovac, is addressed. The parties have agreed on a \$235,000
5 joint and several figure for restitution.

6 There's no ability to pay any fine.

7 We spoke about forfeiture at the beginning of the
8 proceeding.

9 And again, there's no ground for departure but
10 variances are requested and we'll consider those as we go
11 further.

12 On behalf of Mr. Meija, Mr. Satawa has the
13 opportunity to make any remarks as to the appropriate sentence
14 as to mitigation. Go right ahead, sir.

15 MR. SATAWA: Your Honor, I will note for the record
16 that I'm sure the Court -- in light of the fact that the Court
17 commented on the excellent and lengthy sentencing memorandum by
18 Mr. Korn and has not remarked on the -- the -- the content or
19 substance of mine, that I would certainly still expect and
20 believe that the Court has reviewed it extensively and
21 understands the basic framework of the arguments I'm making on
22 behalf of Mr. Meija.

23 THE COURT: 1 through 24, read, considered,
24 thoroughly digested. I certainly did read the entire
25 sentencing memorandum. I am in receipt of that. I -- I

1 probably should have mentioned everything I'm in receipt of,
2 and I appreciate that correction, but, of course, you filed
3 that on the 10th, which was a week ago today, and I read that
4 not only over the weekend but again this morning.

5 Go -- go right ahead, Mr. Satawa.

6 MR. SATAWA: Thank you, Your Honor.

7 Your Honor, the substance of my arguments are
8 contained in that memorandum. I don't think I need to repeat
9 them for the Court or -- or the government.

10 Your Honor, I -- I -- I note that the Court has --
11 has just discussed with its court reporter the idea of making a
12 joint transcript. I would in that vein, rather than repeat
13 some of the arguments made by Mr. Korn, I would ask the Court
14 to adopt many of those arguments just for the sake of
15 efficiencies' sake.

16 Your Honor, these cases are without question
17 difficult and troubling. And as I stand before Your Honor on
18 behalf of Mr. Meija, the -- the thing that really struck me as
19 I heard both Mr. Korn and Mr. Mulcahy speak is that many of
20 the -- of the comments made by both sides in this case
21 highlight the -- the difficulty and sort of the uniqueness that
22 these cases present.

23 I -- I -- I -- I can only state that my impression of
24 this case was that -- that both sides have been represented
25 extraordinarily well by counsel, and I have had nothing but

1 a -- a -- a very professional relationship with both Ms. Russo
2 and Mr. Mulcahy as this case has gone through the -- its -- you
3 know, through that court system. I know that they are
4 aboveboard and professional and have made arguments that they
5 feel best represent their client, the United States, and -- and
6 I stand before Your Honor in that -- in that same vein.

7 I guess the -- the -- the real rub or point of the
8 adversarial system is to have lawyers representing both sides
9 to come up in front of Your Honor and make arguments. And
10 there's no question that these crimes are abhorrent. There's
11 no question that they caused suffering. There's no question
12 they caused damage. There's no question that they've caused in
13 some cases I'm sure lifetime damage, and -- and in other cases
14 it sounds like some of the victims are -- are -- are -- are
15 doing better than that.

16 And, Your Honor, there's -- there's -- there's
17 nothing that any advocate can do on either side to -- to undo
18 what has been done. Your Honor's comments that Congress has
19 clearly identified this as a -- a case that deserves the -- the
20 most stringent and lengthy punishment permeates throughout this
21 case.

22 And on behalf of Mr. Meija, I think it's important
23 that as I listened to Mr. Mulcahy and the sentencing argument
24 he made as it related to the first sentencing defendant, what
25 strikes me, Your Honor, is the point I tried to make in my

1 sentencing memorandum that almost everything the government
2 said is taken apart -- is taken into account by the guidelines.
3 I know of no other offense where your base level starts in the
4 40s. I -- in -- in researching the guidelines, I could come up
5 with terrorism and -- and, you know, obviously, you know,
6 severe, serious racketeering enterprise type cases. And I
7 understand the government's argument that this is an enterprise
8 by any definition and that it is no different from an organized
9 crime or drug -- a drug gang that's racketeer -- that's
10 racketeering and running drugs and guns or -- or whatnot. I --
11 I understand that argument.

12 But I -- I think it's important for your Court when
13 analyzing -- for this Court, when analyzing the 3553 factors,
14 to -- to start with the idea that we are starting with a life
15 sentence. An individual that has had never contact with the
16 criminal justice system, not an arrest, not a conviction, a
17 Level I, and not a Level I with some minor criminal history but
18 a true Level I, no criminal record, stands before Your Honor
19 with a presumptive sentence of -- of life, a guideline range
20 that starts him at life, and that is solely driven by the
21 guidelines which is solely driven by those kind of factors that
22 the government argues.

23 Of course the crime is abhorrent. That's taken into
24 account by the guidelines. Of course it's caused damage.
25 That's why the guidelines are so high. That's why there is a

1 repeat and -- and dangerous sex offender enhancement that when
2 started with a level 35 combines with that five points to make
3 this a level 40, and you only need three more points to get to
4 a life, a presumptive life sentence with a Criminal History
5 Category I. It is without question a serious offense. It is
6 without question an offense that caused serious and -- and --
7 harm and damage to untold amounts of young people.

8 But the way I understand 3553 and the way I
9 understand the guidelines is is this Court is not supposed to
10 compare this offense or this offender to somebody who had been
11 convicted with the federal crime of trespassing on federal
12 forestry. I mean Mr. -- Mr. Meija's sentence is to be
13 fashioned by comparing him to others convicted of this offense,
14 like offenses. The guidelines are -- are designed to -- to
15 drive that point home, that -- that like offenders who commit
16 like offenses, the Court is -- the guidelines are to try to
17 establish, however fleeting and difficult, that -- that maybe
18 unattainable goal of uniformity and -- and -- and avoiding
19 disparate treatment as -- as -- as required by 3553.

20 When -- when -- when one does that, when one looks at
21 the unique circumstances, personal background of Mr. Meija,
22 yes, Mr. Meija was one of the most active talkers of this
23 group. Mr. Meija's role was -- was critically important to the
24 group's success and sustainability. I understand that and Mr.
25 Meija understands that.

1 But regardless of what arguments were made as it
2 relates to other defendants, Mr. Meija was arrested and gave a
3 full confession almost immediately. When he was brought to
4 this district, he sat down with counsel, myself, with the
5 government and gave a full and complete debriefing. He offered
6 passwords, he offered information, he offered active
7 cooperation if they were, in fact, motivated to get it.

8 THE COURT: Yeah.

9 MR. SATAWA: You start from a place of a young man
10 who as a child had to live with the guilt and the suffering of
11 his own mother having died during childbirth. He grew up after
12 that in a house where his stepmother viciously and violently
13 abused him, in a family that had little or no money. And
14 despite those things, after coming to this country, and again,
15 Your Honor, coming to this country without status, which means
16 he will be -- and I don't know why I put in my sentencing
17 memorandum Canada -- Canada; it's obviously Mexico. I -- I --
18 that's just a typographical error, Your Honor, that I apologize
19 for. Mr. Meija is going to be deported back to -- to Mexico
20 upon his release, to go back to a country he's never known
21 without family who is basically all here.

22 Despite that background, despite that environment,
23 where he himself, in fact, attempted suicide by cutting his
24 wrists due to the abuse by his stepmother, he himself suffered
25 from psychological problems as a teenager, serious

1 psychological problems as a teenager, became a -- a valuable
2 employee. The -- the comments by his boss at the time of his
3 arrest are part of the Pre-Sentence Report and quoted in my
4 sentencing memorandum.

5 Your Honor, I think that when one examines the
6 history and characteristics of Mr. Meija as a defendant, the
7 idea of a sincere amount of remorse and a significant
8 acceptance of responsibility for his actions jumps off the page
9 and really, really is highlighted by -- by -- by the actions
10 that Mr. Meija took upon his arrest and in the immediate
11 aftermath of his arrest and early in this case.

12 No -- at no point has Mr. Meija to myself, to the
13 Court or to the government has ever tried to justify or explain
14 away his actions. This is an individual who has wholeheartedly
15 embraced what he has done and understands he has a part to
16 play.

17 Your Honor, his -- his background and
18 characteristics, particularly again the fact that he is a true
19 offender, first-time offender without a criminal record, speak
20 to a -- a -- a -- speak to a variance ground that this Court
21 should seriously consider.

22 Finally, Your Honor, I'd like to say this. Unlike I
23 believe every other defendant in this case who can benefit from
24 the sex offender treatment program at Butner, who's going to
25 get good time credit, who is going to be eligible for 54 days a

1 year for good time credit and perhaps reductions in the
2 sentence for completion of various programs including the sex
3 offender treatment program offered at Butner and other
4 facilities in this -- in the BOP, Mr. Meija is ineligible for
5 almost all of them due to his -- his status as -- as a
6 deportable alien. He is going to do by any projection day to
7 day, day for day for his -- his -- whatever -- whatever this
8 Court sentences him. He is 54 days per year times the length
9 of his sentence behind every other defendant in this case. So
10 when this Court fashions a sentence that is unique to Mr. Meija
11 under 3553, I think that's something this Court really has to
12 take into account because over ten years that's 540 days. Over
13 20 years that's over a thousand. You know, over 30 years,
14 that's, again, over 15 or 1600 days that Mr. Meija sits in jail
15 or in custody longer than the co-defendants because of that
16 status as a deportable alien.

17 Judge, the question is not where this crime fits in
18 the greater spectrum of crimes. It is at the top as Mr.
19 Mulcahy said. It is at the top of the pyramid and it's at the
20 top of the pyramid because Congress says it belongs there,
21 because the Sentencing Commission says it belongs there,
22 because society says it belongs there, and it's at the top of
23 the pyramid for a reason.

24 But within that tip of the pyramid, where does Mr.
25 Meija fall? Does he fall at life or does he fall at 20 years?

1 And, of course, I don't think the Court is at all surprised by
2 every defendant came in to court asking for a 20-year sentence,
3 which is, of course, the mandatory minimum this Court must
4 give.

5 But when this Court looks at the unique circumstances
6 of Mr. Meija, I believe that a sentence of 20 years is
7 justified in his case for all the reasons I've said here today
8 and for all the reasons contained in my sentence -- sentencing
9 memorandum.

10 And I thank Your Honor, I thank you for Your Honor's
11 time and consideration.

12 THE COURT: Okay. Thank you very much, Mr. Satawa.
13 And I will not forget to thank you for your hard work
14 throughout the representation of your client through the case
15 and for taking the appointment. The Court greatly appreciates
16 quality lawyers like you representing indigent defendants as
17 well, so thank you.

18 And let me now turn to Mr. Meija. Sir, you have the
19 right to make any statement on your own behalf in addition to
20 or combined with your lawyer's statements as to the sentence
21 and anything else you'd like to say. Go right ahead. You'd
22 move the microphone. Okay. Thank you, sir.

23 DEFENDANT DOMINGUEZ-MEIJA: First of all, how you
24 doing, sir? I'm not going to make excuses for what I did and I
25 know I hurt a lot of people, especially victims, their parents,

1 their families. And I went through something similar so I
2 should have, you know, not done anything like that, but it's a
3 thin line, I crossed it, and I just deserve what's coming my
4 way. I'm not going to make excuses. I'm sorry.

5 I'm giving away part of my life. This payment is not
6 enough. I know my life is probably worth nothing for them.
7 But, you know, I just want to tell them that I'm sorry. I
8 never meant to hurt anybody. I didn't think about the -- the
9 volume, the -- the -- the level that I -- of -- of -- of the
10 crime that I was making, and all I can say is that I'm sorry,
11 no excuse for what I did.

12 THE COURT: Okay.

13 DEFENDANT DOMINGUEZ-MEIJA: Thank you.

14 THE COURT: Thank you, sir. Thank you for those
15 remarks.

16 Ms. Russo, on behalf of the United States.

17 MS. RUSSO: Thank you, Your Honor.

18 I guess I would like to just incorporate the victim
19 impact statements that were made today on the record and
20 Exhibits A through F into this sentencing hearing just in the
21 event that they aren't already incorporated.

22 I want to start with talking a little bit about some
23 of these arguments about the sentencing guidelines that have
24 come up in the sentencing memo and again here today, Your
25 Honor. A lot of the -- the criticisms that were cited in

1 the -- in the sentencing memo deal with receipt and
2 distribution of child pornography cases, and I think my
3 colleague, Mr. Mulcahy, has made very clear that this is just
4 an entirety -- entirely different animal. This case obviously
5 involves production, not receipt or distribution. It involves
6 the exact sort of case that actually the writers of the
7 sentencing guidelines and the Commission have found would
8 warrant additional sentencing enhancements.

9 So maybe perhaps the use of a computer enhancement,
10 for example, might be something that the Court and the
11 Commission have been critical of. However, when you look at
12 the additional enhancements that the Commission has requested
13 for things like the content of the videos and images on an
14 offender's devices, the offender's conduct and the level of
15 sexually charged interactions with minors an offender has, the
16 degree of an offender's engagement with other offenders, Your
17 Honor, you would find that all of the suggestions that the
18 Commission has about applying additional enhancements would be
19 applicable in this case. And so, Your Honor, I assure you,
20 regardless of whether we took out the use of a computer
21 enhancement and added those enhancements in, these defendants'
22 guidelines are all appropriately life in prison.

23 The defense makes some arguments about child
24 exploitation enterprise and suggests that every child
25 exploitation enterprise case is going to have a guideline of

1 life imprisonment because of the 4B1.5(b) enhancement, Your
2 Honor, but that's just not true. We have a spectrum of child
3 exploitation enterprise cases. The predicates for child
4 exploitation enterprise count can include distribution of child
5 pornography that a defendant's downloaded on the Internet; they
6 can include receipt of child pornography; they can include
7 access with intent to view child pornography.

8 Your Honor, none of those situations, if -- if that
9 were the type of child exploitation enterprise case we were
10 having, if these defendants got together and for a week maybe
11 traded some child pornography that they found online, that
12 would still be a very serious offense and it would still
13 warrant the 20-year mandatory minimum, the fact that they were
14 working together to do this, but their guidelines wouldn't be
15 life in that situation and the 4B1.5 enhancement wouldn't
16 apply.

17 So when defense counsel says that the base Offense
18 Level for CEE is 40, they're incorrect. The base Offense
19 Level, the starting Offense Level is 35. In this case we do
20 have a 4B1.5(b) enhancement for a pattern of activity involving
21 the production of child pornography, not distribution, not
22 receipt, not access with intent to view. And that's why the
23 guidelines are life, because there aren't two victims in this
24 case, because there are hundreds of victims in this case;
25 because there aren't two victims of distribution or access with

1 intent to view; because these are victims of production because
2 the defendants recorded them engaging in sexual activity in the
3 first instance.

4 The defense also makes an argument about 4B1.5(a)
5 and suggests that the guidelines shouldn't be life in this case
6 because the defendant doesn't have a prior sex offense
7 conviction and the guidelines, the 4B1.5(b) enhancement,
8 shouldn't apply for that reason, Your Honor.

9 But there is a separate enhancement that would have
10 applied in this case had any of these defendants had a prior
11 conviction for a sex offense, and not enhancement actually
12 would have increased their Criminal History Category to a V,
13 and so instead of being a Criminal History Category I, they
14 would have been a V. They didn't get that enhancement because
15 they don't have that prior offense. So that has already been
16 taken into account by the Commission when they wrote the
17 guidelines.

18 So then let's go to the nature and circumstances of
19 this offense, Your Honor. It warrants life imprisonment.
20 That -- there's no doubt about that. And for many of the
21 defendants who haven't been sentenced by Your Honor, perhaps
22 the other two that are involved in this conspiracy and others
23 down the line, we may be asking for life sentences because that
24 is what the guidelines call for.

25 In this situation we did not ask for a life sentence,

1 even though that is what Mr. Dominguez deserves, because of two
2 things. We did not ask for a life sentence for Mr. Dominguez
3 and instead ask today for a 40-year sentence, Your Honor, for
4 him because of his history and characteristics, which defense
5 has talked a little bit about. He did have a childhood where
6 he was physically abused, and the government has taken that
7 into account in not recommending life for him.

8 And the other factor that the government took into
9 account is that Mr. Dominguez did come to the government, did
10 cooperate, and that cooperation did lead to strengthening the
11 probable cause and an additional search warrant for an
12 additional defendant, Your Honor. And so that cooperation did
13 assist the government, and in that way the government feels
14 like that should be taken into account by Your Honor.

15 However, Your Honor, those things aside, this
16 defendant is the most aggressive of the talkers of this group
17 that has so far been convicted. He had horrible, egregious
18 content on his devices. I would say that him and Mr. Kovac had
19 the worst content of any of these six individuals in terms of
20 his devices. He is the only defendant that recorded a minor
21 cutting her arms and bleeding profusely while having her shirt
22 taken off, Your Honor. He is the only defendant of the six
23 that we found a video like that on. He has many bestiality
24 videos that he personally recorded.

25 And there's something else that sets him apart in a

1 negative way from the other co-conspirators here today, Your
2 Honor, and that is that this defendant was incredibly
3 sophisticated. He used a VPN to anonymize his identity and to
4 make it harder for law enforcement to detect him, and as a
5 result, for many years law enforcement did not detect him.

6 And so I think that those are the aggravating factors
7 for this defendant.

8 He admitted as well upon the day of his arrest that
9 not only did he use this VPN but that he also accessed the dark
10 web, and he did so in order, in his words, to watch little
11 girls being raped by their fathers. That is why he did that.

12 So these are the numbers for Mr. Dominguez: 15,735
13 child exploitive images and videos. What do we mean by that?
14 We mean that these are videos that may not constitute child
15 pornography. These are videos of these girls at their homes,
16 playing, painting their nails, sleeping, dancing, those types
17 of videos, or it could be videos of girls who are taking off
18 their shirts but not necessarily engaging in the type of sexual
19 activity that under the federal definition meets child
20 pornography requirements.

21 The longest video we had, Your Honor, was 25 hours
22 and 37 minutes long of one of these girls. The total length of
23 the video collection he had was 1,820 hours. 9,024 child
24 pornography videos total, Your Honor.

25 These are the types of chats he had. So when he

1 tells me that he's remorseful and that he did not want to hurt
2 these girls, it's -- it's hard for me to believe that because
3 this is a chat with MV-8, Your Honor. This is a 14-year-old
4 child and this is the defendant trying to get her to engage in
5 sexual activity with her pet dog. You heard from MV-8's father
6 today, Your Honor. And this is the sort of things that he
7 would say to these young girls.

8 His attitude towards the victims, whether he cared or
9 knew what they were cutting or suicidal, he absolutely did
10 know. Here we have a co-defendant's, Massey, saying, "How do
11 girls learn about cutting, do they talk about it in school?
12 Hey, girls don't do this. They can't all just randomly figure
13 it out themselves." And his response, this defendant's
14 response is to put in a laughing emoticon about this. This is
15 like a discussion that they're having about these children
16 harming themselves and laughing about it.

17 And, Your Honor, when Mr. Mulcahy says we have given
18 you a small sliver of the chats, we have 16,000 pages of chats
19 with these defendants. We have given you the smallest of
20 slivers.

21 In terms of the videos he had of some of the minors
22 that you heard from today, Your Honor, he had 26 videos of
23 Minor Victim 8. You heard from her father.

24 He had 18 videos of Minor Victim 35 who spoke to you
25 herself and her mom spoke to you as well.

1 He had 12 videos of Minor Victim 11. This is the
2 14-year-old girl who attempted suicide during the pendency of
3 this case. It's Exhibit F in your victim impact statements
4 that we submitted to you this morning, Your Honor.

5 Video titles he had included horribly explicit
6 things. The one of this girl self-harming, Your Honor, he
7 entitled "MV Cutting Arms and Covered in Blood."

8 He also argues to Your Honor that this is aberrant
9 behavior. He should get a downward departure because this is
10 just something that happened and it's just one offense and he
11 has no criminal history. Your Honor, that argument is frankly
12 ridiculous. This defendant was doing this every day for four
13 years for hours at a time. And if we were to just try to do
14 some numbers and some math on that, one victim every day for
15 four years equates to 1,460 federal crimes. That's how many
16 crimes this defendant committed. Now, is it just one victim a
17 night? Oh, absolutely not, Your Honor. These defendants were
18 targeting seven or eight girls per night that they were on
19 doing this activity.

20 So when we think about this decision, this is not a
21 spontaneous decision, it's not an impulsive mistake that this
22 defendant made one night. It is a decision he chose to make
23 again and again and again and again each and every time he
24 recorded one of these minors, each and every time he logged on
25 to social media to talk to one of them, and each and every time

1 he coordinated with his fellow group members to figure out how
2 best to get these 13, 14, 15, 16-year-old girls to unrobe and
3 to engage in sexual activity.

4 So when we talk about promoting respect for the law
5 and specific deterrence and specifically risk of recidivism in
6 these sorts of cases, Your Honor, I think the Sentencing
7 Commission's comments about those offenders who are most likely
8 to commit future offenses are helpful.

9 And the Sentencing Commission has said a number of
10 things. They've laid out the fact that if there's child
11 pornography on multiple devices, if the defendants have used it
12 for purposes of masturbation, if they maintain larger
13 collections than other offenders, and if they communicate with
14 other child pornography offenders. We know that's true of each
15 of these defendants, and so they are in the highest risk
16 category for recidivism and future offenses.

17 And I think the Court has heard some studies from
18 defense suggesting that there are low rates of recidivism in
19 this case. And, Your Honor, you -- you might be wondering why
20 does the government have these studies that say there's over a
21 50 percent chance of recidivism and why does the defense have
22 these studies that say 4 percent, 5 percent chance?

23 So I just want to explain that difference a little
24 bit, Your Honor, because the defense studies are based on
25 conviction data whereas a lot of the government's studies that

1 are -- that are saying 50 percent or more rates of recidivism
2 are based on self-report, in other words, a defendant who has
3 admitted his prior behavior, and so that's where this
4 discrepancy comes in.

5 And so which sort of studies should you rely on? And
6 I would submit that the government studies are more reliable,
7 Your Honor, because as you know, only 5 percent of victims in
8 these cases actually report when something has occurred. Many
9 of these girls, until the FBI came to their house, their mom
10 and their dad had no idea that this was happening, and there
11 are a multitude of reasons why these young girls did not tell
12 their parents what was going on.

13 And so I would submit when you look at studies of
14 recidivism, to keep that in mind, that the defense studies and
15 the evaluations they've used and the tools they've used are
16 based on conviction data and not on actual data of the number
17 of offenses that an -- an offender has.

18 Okay. Another argument that you have heard over and
19 over again came up in Kovac's sentencing and it's come up again
20 as --

21 THE COURT: You don't need to say it if I've heard it
22 over and over again, please.

23 MS. RUSSO: Yes, Your Honor.

24 My only point here is that there is absolutely no
25 empirical basis to account for age in sex offenders when

1 assessing future risk of re-offending, especially in an offense
2 like this, Your Honor, where someone just had a computer. They
3 can easily do that when they're in their 70s or 80s.

4 So the way I'd like to just conclude, Your Honor, is
5 when we talk about protection of the public with respect to
6 these victims, this case is so hard to quantify in terms of the
7 harm that was done. But if you took even one of these victims
8 and you tried to think what's the appropriate sentence just
9 based on the damage that one of these offenders has done to
10 that victim, and then you thought about the fact that there's
11 not just one victim, there's not just two, there's not three,
12 there's hundreds, some of whom you've heard from and some of
13 whom you haven't, I think the appropriate sentence in this case
14 is 40 years.

15 Thank you, Your Honor.

16 THE COURT: Thank you very much, Ms. Russo, and thank
17 you for advocacy on behalf of the United States as well.

18 All righty. I think we have discussed all relevant
19 legal issues and we are ready to impose sentence. I will state
20 the sentence and then give both of the lawyers an opportunity
21 to object.

22 I spoke on the record about deterrence, punishment
23 and protection of the public when Mr. Kovac was here.
24 Obviously the Sentencing Commission has determined that very
25 few circumstances would justify ever releasing an individual

1 with these specific factors being outside -- outside of prison.

2 I really believe that individuals who engage in child
3 exploitation enterprises are dangers to the community, the
4 significance of which to deter themselves and others from
5 committing these types of crimes should be life in prison
6 without further opportunity. But again, in discretion and in
7 conscience, I find that some sort of variance to an individual
8 without prior criminal history is in order.

9 Mr. Satawa makes some points which I think support
10 variance here and a couple of others that I noted on my own.
11 The defendant did come from a -- a poor childhood and had not
12 only a mother pass away during his childbirth but -- but also
13 physical abuse by his father's significant others -- other.

14 In addition to that, I think it is quite evident from
15 not only the lack of a personal written statement but the way
16 the defendant presents himself in -- in court, I think his
17 education is certainly less than what we see in some other
18 members of the conspiracy, and I think that's all due or that
19 aspect, of course, is due to the fact that he is a -- not a
20 citizen of the United States but born here and obtained status
21 in the country without naturalization.

22 Mr. Satawa makes a very good point that custodially
23 he'll be treated differently and more aggressively by the
24 Bureau of Prisons than other co-defendants who are citizens, so
25 I think he should get some mild credit for that as well.

1 Nevertheless, this was a repulsive offense with an
2 extensive amount of criminal activity that the government went
3 over and needs no further buttressing.

4 Again, I'm going to note, and I think this might be a
5 factor that we see throughout these sentences, I'm going to
6 give Mr. Meija a sentence -- because I believe he should get a
7 life sentence, but I'm going to give him a sentence that's less
8 of a departure and therefore longer of a sentence than I gave
9 to Mr. Kovac, but puzzlingly, he will emerge from prison at a
10 younger age than Mr. Kovac does. So I'm trying to balance
11 those factors as well.

12 Therefore, pursuant to the Sentence Reform Act of
13 1984, the Court, having considered the sentence guidelines and
14 factors contained in 18 USC, Section 3553(a), hereby commits
15 the defendant, Felipe Dominguez-Meija, to the custody of the
16 U.S. Bureau of Prisons for a term of 492 months.

17 It's further recommended that the defendant be
18 designated to an institution with a comprehensive sexual
19 offender treatment program.

20 Upon release from imprisonment, the defendant shall
21 be placed on a supervised release term of five years.

22 It's further ordered that the defendant pay a special
23 assessment of a hundred dollars. That will be due immediately.
24 And a Justice For Victims of Trafficking, JVT, assessment of
25 \$5,000.

1 I am aware that the parties agreed to restitution in
2 the amount of \$5,000 per identified victim and I will therefore
3 order restitution in the amount of \$235,000. I will waive any
4 interest, penalty and fees that may accrue on that restitution
5 amount. It's also joint and several. Is it joint and several?

6 MS. RUSSO: Um --

7 THE COURT: Should I be saying that or not?

8 MS. RUSSO: Your Honor, it's not joint and several.

9 THE COURT: All right.

10 MS. RUSSO: For -- and -- and it is a little bit
11 different for Mr. Dominguez because he wasn't in the two
12 groups.

13 THE COURT: Yeah.

14 MS. RUSSO: So his total amount would be 215,000, and
15 the parties will prepare a stipulation though for Your Honor.

16 THE COURT: 215,000 at \$5,000 per identified victim,
17 not joint and several.

18 No fine, no costs of incarceration, no costs of
19 supervision because the defendant has no financial resources.

20 While in custody, participation in the Inmate
21 Financial Responsibility Program is ordered. The Court is
22 aware of the requirements of that program and I will approve
23 the payment schedule of the program and order the defendant's
24 compliance.

25 Mandatory drug testing will be suspended based on my

1 determination that Mr. Meija poses a low risk of future
2 substance abuse.

3 While on supervision, Mr. Meija shall abide by the
4 standard conditions adopted by the U.S. District Court for this
5 district and he must comply with all of the 20 -- excuse me,
6 all of the -- well, let me just summarize. These special
7 conditions will be ordered in Mr. Meija's case. I believe
8 there are 14 of them and I believe they track exactly those
9 that were given to Mr. Kovac so I'm not going to go over them
10 in depth.

11 But compliance with the SORNA.

12 Successful completion of diagnostic evaluations,
13 treatment and polygraphs.

14 Periodic polygraphic testing by the probation
15 officer.

16 No association with minor children.

17 Notification of anyone who he marries of this
18 particular conviction.

19 No purchasing, sale or possession of any sort of
20 pornographic image.

21 Employment pre-approved by the Probation Department.

22 Residences pre-approved by the Probation Department.

23 And then participation in the Computer/Internet
24 Monitoring Program, CIMP.

25 The defendant must also submit his person to a search

1 if reasonably assessed by the Probation Department.

2 No contact of any sort with any victim.

3 Due to the restitution amount, no credit charges or
4 open lines of credit.

5 Any financial information requested by the probation
6 officer shall be turned over.

7 And monthly installment payments on any remaining
8 balance of the fine -- of the special assessment.

9 Now, those conditions were all stated in depth and in
10 great detail when I sentenced Mr. Kovac. Mr. Meija was here
11 for that, and therefore I will incorporate and adopt those by
12 reference for Mr. Meija as well.

13 Is there any objection to the sentence I just gave,
14 Ms. Russo?

15 MS. RUSSO: No, Your Honor.

16 THE COURT: Mr. Satawa?

17 MR. SATAWA: No, Your Honor.

18 THE COURT: Okay. Thank you very much. The sentence
19 that I just imposed will be -- excuse me, that I just stated
20 will be imposed without objection.

21 The defendant has waived his right to appeal his
22 conviction within his Plea Agreement. He has also waived the
23 right to appeal his sentence because the sentence that I gave
24 was below the guideline term that was called for within the
25 Plea Agreement.

1 Mr. Meija, if you believe you have the right to
2 appeal notwithstanding that waiver, which most courts honor,
3 you would have to take that up directly with the U.S. Court of
4 Appeals.

5 The defendant will be remanded to the custody of the
6 marshal for continued care pending the service of his sentence.

7 Complete copies of the Pre-Sentence Report will be
8 sent to the Bureau of Prisons and the Sentencing Commission.
9 All other copies will be kept strictly confidential as is the
10 practice of the district.

11 Is there anything else from Ms. Russo?

12 MS. RUSSO: Your Honor, I'll move to dismiss Counts 2
13 through 6 of the indictment at this time.

14 THE COURT: Okay. Those are dismissed without
15 objection.

16 Anything else from Mr. Satawa?

17 MR. SATAWA: No, Your Honor.

18 THE COURT: Okay. Thank you. And good luck to you,
19 Mr. Meija.

20 DEFENDANT DOMINGUEZ-MEIJA: Thank you.

21 THE COURT: Okay. Thank you. All righty.

22 (Proceedings concluded at 12:58 p.m.)

23 — — —

1 Detroit, Michigan

2 Tuesday, July 17, 2018

3 — — —

4 (Proceedings commenced at 12:58 p.m., all parties
5 present)

6 THE COURT: Moving forward, Mr. Massey.

7 MS. RUSSO: We can do Mr. Robinson, Your Honor.

8 THE COURT: Why do you want to do Mr. Robinson
9 instead of Mr. Massey?

10 MR. HAYES: May I approach with Ms. Russo?

11 THE COURT: You want this on the record or off the
12 record?

13 MR. HAYES: Off the record.

14 (Brief discussion held off the record)

15 THE COURT: So remind me, Ms. Russo, we're going with
16 Mr. Robinson?

17 MS. RUSSO: Yes, we are, Your Honor.

18 THE COURT: Okay. You can stand at the microphone,
19 Mr. Robinson, and your counsel, you can unload, and whenever
20 you're ready to go let me know, okay?

21 MR. HAYES: Thank you, Judge.

22 THE COURT: Thank you.

23 (Brief pause)

24 MR. HAYES: Good afternoon, Your Honor.

25 THE COURT: Good afternoon to you.

1 MR. HAYES: Certainly I'd like to start again by --

2 THE COURT REPORTER: Counsel, could you please give
3 your appearance?

4 MR. HAYES: Sorry. Charles Hayes, Your Honor, for
5 Eric Robinson.

6 THE COURT: Okay.

7 MR. HAYES: And first of all, we'd like to again, as
8 our colleagues have done previously, incorporate our sentencing
9 memorandum into today's record as well.

10 THE COURT: Yes.

11 MR. HAYES: And I'd also like to point out, Your
12 Honor, to the Court today Mr. Robinson's sister, brother,
13 ex-wife and mother have made the drive to -- from Minnesota
14 today. I did want to acknowledge their presence in the
15 courtroom today.

16 THE COURT: I'm glad you did. Thank you very much.
17 And welcome to the family of Mr. Robinson.

18 I -- I don't think -- I think this is merely a typo,
19 but the Pre-Sentence Report says that the defense lawyer was
20 Mr. Walker, and I know you filed an appearance and you're here
21 and I did receive your sentencing memorandum along with all the
22 exhibits. I just want to make sure, is that -- who was here at
23 the plea?

24 MR. HAYES: Mr. Walker was here at the guilty plea
25 hearing, Your Honor. I was retained subsequent to that event.

1 THE COURT: All right. Okay. Good. That would make
2 sense. Then we will have Mr. Hayes added as counsel of record
3 by Ms. Irizarry in the Pre-Sentence Report, okay?

4 THE PROBATION OFFICER: Yes, Your Honor.

5 THE COURT: Okay. Thank you very much. I appreciate
6 that.

7 All righty. Let me turn to Mr. Robinson directly and
8 ask you, sir, whether or not you've had the opportunity to read
9 over the entire Pre-Sentence Report with your lawyer, Mr.
10 Hayes, have it explained to you and look at any changes that
11 have been made after it first came out?

12 DEFENDANT ROBINSON: Yes, Your Honor.

13 THE COURT: Okay. Very good. As with the previous
14 two defendants that were here, there appear to be no objections
15 to the Pre-Sentence Report. And there was -- there was an
16 addition that was made April 10 that included a couple of
17 statements from Mr. Robinson which I have -- which I have read
18 that deals with the service provider of psychological records
19 and, again, Mr. Robinson's statements.

20 Is there anything about the Pre-Sentence Report that
21 I haven't addressed or that you'd like to correct, object to or
22 otherwise be heard on, Mr. Hayes?

23 MR. HAYES: No, Your Honor.

24 THE COURT: Okay. Ms. -- Mr. -- Ms. -- Ms. Russo?

25 MS. RUSSO: Yes, Your Honor.

1 THE COURT: Anything on the Pre-Sentence Report?

2 MS. RUSSO: No, Your Honor.

3 THE COURT: All right. Very good. The Offense Level
4 is 43, the Criminal History Category is I. The guideline
5 provisions at that level along with the Plea Agreement call for
6 a life sentence in the case.

7 I will make the factual findings of the probation
8 officer in this particular Pre-Sentence Report the findings of
9 the Court for purposes of this proceeding only.

10 And I will, so that we don't get off track, state
11 that Mr. Hayes filed a 29-page sentencing memorandum on behalf
12 of his client. That contains a stack of 17 letters, of
13 psychological matters and other issues that would aid the Court
14 in sentencing and certainly do so.

15 In addition to that, Mr. Robinson on the 13th, which
16 was last Friday, filed a number of supplemental exhibits,
17 donation history, sample donations that he's made, CV of
18 Jennifer White, all of which I have received and reviewed as
19 well.

20 I should note -- I -- I don't want to make too big of
21 a deal of this, but -- but I should note that the donation
22 history actually evidences donations to the National Center For
23 Missing and Exploited Children which I think is -- is quite
24 good.

25 And of course I have the government's entire

1 sentencing memorandum. I have the government's supplemental
2 memorandum and reply to Mr. Hayes' memorandum, which I've read.
3 And I heard from the victims today.

4 I have the Preliminary Order of Forfeiture.

5 I have the stipulation as to restitution.

6 I don't think there's any grounds for a fine, costs
7 of incarceration or anything of that nature given the
8 defendant's financial situation.

9 And I think I've covered the waterfront and we're
10 ready to hear from Mr. Robinson's lawyer, Mr. Hayes. The
11 defendant through counsel has the right to make any remark or
12 set of remarks on his own behalf as to the sentence or in
13 mitigation. Again, I've read everything I mentioned and I'd be
14 clear -- glad to hear anything else you have to say at this
15 time, Mr. Hayes. Go right ahead.

16 MR. HAYES: Thank you, Your Honor.

17 I think preliminarily I should mention I did have an
18 opportunity to review Ms. Russo's reply brief to my sentencing
19 memorandum, and I had erroneously seen on the PSI from
20 calculating Mr. Fuller's sentence as 360 months as opposed to a
21 420-month aggregate sentence, and so she was correct on that so
22 I did want to address that with the Court.

23 THE COURT: Okay.

24 MR. HAYES: Which if you do the math, then on the
25 average sentence of the defendants in that indictment from --

1 again, from the PSR would be 322 months instead of 312 months,
2 and so I thought it was important that I -- I do correct it.

3 I would like to point out that Mr. Fuller's sentence
4 I believe came after a lengthy jury trial in which certainly
5 there were multiple victims or victims' family members who had
6 to testify at a lengthy trial for the 420-month sentence that
7 he ultimately did receive.

8 I don't want to spend much time, Your Honor,
9 discussing the policy arguments. I think some of my colleagues
10 have already done a good job of contextualizing, and, of
11 course, they would have been included in our sentencing
12 memorandum.

13 But instead I'd kind of like to focus on what I
14 believe to be a fair question here, Your Honor, is why should
15 my client get a better sentence than his co-defendants, and I
16 think that's a fair question the Court essentially was
17 pondering when it ultimately administered the sentence to Mr.
18 Kovacs.

19 I'd like to look at three separate things, Your
20 Honor, but I think it's important that I address what I believe
21 to be the appropriate sentence today, Your Honor, and that's a
22 three-level variance from his 43, his calculated guidelines
23 score of 43, which would put him into Level 40, which would
24 have a minimum sentence at Level 40 of 292 months. And I look
25 at three real points here, Your Honor, of why a three-level

1 variance seems appropriate in Mr. Robinson's situation.

2 And I start with remorse, repentance and
3 rehabilitation, Your Honor. I think those three often go hand
4 in hand but don't always. It's obviously pretty easy for
5 courts, defense attorneys, prosecutors to be somewhat cynical
6 when a defendant comes up here and makes an allocution or
7 writes a letter to the Court. And certainly the victims have
8 every right to be cynical as -- as for what a particular
9 defendant's remorse is for his actions, and ultimately it's in
10 the eye of the beholder on what you believe to be a remorseful
11 person and who you believe is just trying to -- to act the way
12 that they feel is necessary in front of a judge or in front of
13 a court.

14 Certainly I would start by discussing the victim
15 impact statements today. I'm sure everyone in the courtroom
16 could see the genuine remorse on my client's face as he
17 listened to the -- the horrific details of what he and his
18 co-conspirators did to these victims and their family and even
19 right now as Mr. Robinson stands next to me. But remorse in --
20 in itself is -- is often hollow because we can say whatever we
21 want, we can act in different ways, but it's really how we
22 process our remorse in making ourselves a better person and to
23 repent, to repent for what we have done.

24 And I'm glad the Court has already pointed out in the
25 sentencing memorandum we filed the donations that Mr. Robinson

1 made to the National Center For Missing and Exploited Children,
2 and it's important to discuss that because the timing of when
3 he started doing that was in the fall of 2016 which was
4 essentially three months after the search warrant was served on
5 his residence and about seven months or eight months before he
6 was ultimately arrested or, excuse me, nine months before he
7 was ultimately arrested in August of 2017.

8 But when he started doing this, he was at a pretty
9 low point in life, Your Honor. He -- he had a failed business
10 that he'd had to declare bankruptcy for as a result of -- of a
11 lot of issues, but certainly a lot that had to do with his
12 behavior. His wife filed for divorce and he was struggling,
13 and financially this was not a -- a time where it would be easy
14 for someone to make contributions to this organization. And,
15 yeah, Judge, I understand it's not a ton of money, but for Mr.
16 Robinson at the time it certainly was. But more importantly,
17 it was his way of trying to redeem himself and repent for what
18 he had previously done. And again, Your Honor, this was well
19 before certainly I ever became involved in this case, well
20 before he had counsel in this case and well before these
21 charges ever came forward.

22 So it's certainly easy for people to make
23 life-changing decisions when the Court has officially
24 intervened, and that wasn't the case here. This was Mr.
25 Robinson trying to use his remorse to -- to do good things and

1 to try to help what he knew he had done to children previously.

2 The other thing, Your Honor, that -- that is
3 important with remorse is ensuring that you don't continue the
4 behavior that constituted your -- not only your violation of
5 law but -- but really in this situation allowed Mr. Robinson to
6 devolve for a period of three or four years into a soulless
7 man, and he readily admits that.

8 And instead of thinking back on that and just feeling
9 guilty about it or feeling bad about it, which he clearly does,
10 he did something about it. He started going to AA in the early
11 summer of 2016 and shortly thereafter began getting treatment
12 for not only his alcohol addictions but also his -- his
13 Internet addictions but also the -- the problems that he has
14 with -- with his sexuality. And he attended meetings, as -- as
15 the Court is well aware in the evaluation, for over a year,
16 weekly meetings. I think he attended something like 53
17 meetings, Your Honor, over the course of little over a year
18 with -- with Ms. White.

19 And she did at -- at the conclusion of -- of meeting
20 with him -- of course, his -- his meetings with her were
21 interrupted by his arrest in this case and he's remained in
22 custody since August of 2017, but certainly she provided an
23 analysis report. And again, it is just a projection, Your
24 Honor. It's -- it's based off of studies certainly, and as all
25 studies are, maybe they're not all infallible.

1 But what's important to note is -- is this came from
2 a licensed clinician in this field but not someone who is just
3 a hired gun, Your Honor, by my office to -- to -- to file a
4 report on Mr. Robinson. This is a person she had treated for
5 over a year, well before he had any clue on how severe his
6 penal punishments would be in this case. He was doing this on
7 his own volition and not only to remedy the problems that he
8 had caused but to make sure that they never happened again, and
9 by all accounts, he had done just that when he was arrested.
10 And that's in some ways part of the tragedy of this whole case
11 is that when Mr. Robinson finally gets his act together, here
12 we are, and that's of his own fault.

13 And he's not here to make any excuses, Your Honor,
14 for what he did. He understands that he can't use his
15 alcoholism or his depression as a crutch for his actions.
16 They're just part of his life story, Your Honor. But I think
17 that that story, Your Honor, his remorse, his repentance, his
18 rehabilitation, that's certainly at least one level off as a
19 variance.

20 Mr. Robinson has been an -- an avid cooperator in
21 this case. Certainly, again, cooperation sometimes ends up in
22 the eye of the beholder, Your Honor, because we can cooperate
23 all we want, we can try and provide as much information as
24 possible to the government. Ultimately we can't be the ones
25 who necessarily are the ones who give the substantial

1 assistance that -- that get other people arrested or convicted.

2 But certainly Mr. Robinson has done everything he
3 could, everything he can, and continues to cooperate with the
4 government. He's made himself available to testify in grand
5 juries or in future trials. As recently as within the last
6 month continues to provide information to the government. And
7 again, whether there's a formal 5K1 filed, Your Honor, I think
8 certainly his cooperation, his intentions to continue to
9 cooperate in the event any -- any future defendants are
10 arrested certainly is -- is worth at least one level off for a
11 variance.

12 And, Your Honor, the -- the third point that needs to
13 be discussed is certainly his -- his characteristics as a
14 person. He's struggled with depression, Your Honor. And
15 again, that's not an excuse because instead of seeking
16 professional treatment, he instead isolated himself and drank
17 inordinate amounts of alcohol as a numbing effect.

18 But he also, Your Honor, does have -- like I said, he
19 has not had the easiest upbringing as we discussed in the
20 sentencing memorandum. Certainly has a loving family, but as
21 everybody in this courtroom is aware, that doesn't mean that
22 everything's been perfect. He was the victim of -- of a sexual
23 abuse issue himself.

24 And it's also important to discuss what his role in
25 the conspiracy was, Your Honor, and certainly his actions were

1 deplorable, inexcusable. But he was Defendant Number 6 in this
2 case in -- in -- large part from when you look at the
3 government's memorandum because he didn't seem to be as
4 aggressive or as targeting as some of the individuals and
5 certainly wasn't as mean spirited as some of these other
6 people.

7 And that -- again, that has nothing to do, Your
8 Honor, with his acceptance of responsibility or justifying
9 his -- his actions, but it's important that you distinguish him
10 from some of the other people in this conspiracy because
11 ultimately, Your Honor, that is a -- a difficult thing for the
12 Court to do is say why this person should get less time than
13 some other person when the sum of the parts in this case is so
14 horrific and so terrible.

15 Your Honor, we're asking for a three-level variance
16 which we believe is appropriate given his remorse, his
17 repentance, his rehabilitation, his ongoing cooperation and the
18 mitigation of his life history as well as taking into account
19 his actual role in the conspiracy.

20 And given, Your Honor, that he does have children,
21 certainly this hits home probably more to him than anybody
22 else. I think one of the -- the mothers earlier today really
23 made some very poignant things to Mr. Robinson that he's been
24 feeling for a long time. Having to address this with his
25 children is probably worse than anything the Court can do

1 today, and he brought it upon himself, Your Honor.

2 But given he has children, given his aging mother,
3 we're requesting a 292-month sentence.

4 And I think at this point, Your Honor, I think it'd
5 be appropriate for Mr. Robinson to give his allocution if
6 that's okay.

7 THE COURT: Okay. That's great. Thank you, Mr.
8 Hayes.

9 I would like to note -- I understand your argument.
10 As I mentioned, the range is 43, Level I. Each of the factors
11 you argue would result in a diminution of the overall range of
12 one point, so you'd be looking at 40, Base Level 40 or Overall
13 Level 40, Criminal History I, which is 292 to 365, and that
14 forms the basis at the lower end of your sentencing request
15 which is tied to the guidelines and I think a very well thought
16 out argument.

17 I -- I hate to ask, but it'll be my only opportunity,
18 you are from Indianapolis. Are you a former AUSA or are you a
19 former -- what's your history?

20 MR. HAYES: I was -- Your Honor, I have my own
21 practice in Indianapolis and I used to work with a former AUSA.
22 She's since moved to Florida.

23 THE COURT: You're retained here I take it?

24 MR. HAYES: I am, Your Honor.

25 THE COURT: Okay. All right. Very good. Thank you

1 for your work.

2 MR. HAYES: And Judge, if I made just add one thing
3 based off of -- I guess it's a change in my sentencing
4 memorandum a little bit. Given that he's been in prison now
5 for -- incarcerated for an extra month from when I actually
6 drafted this, I think I had used 291 as a magic number and I
7 think that would be 292.

8 THE COURT: That's fine.

9 MR. HAYES: I just wanted to bring that to the
10 Court's attention. Thank you.

11 THE COURT: He'll get the credit for that regardless.
12 Okay. Thank you for all that, Mr. Hayes.

13 And now Mr. Robinson, of course you have the
14 opportunity to make any remarks you'd like to make on your --
15 your own behalf. I know that Mr. Robinson is in some anguish
16 and I think we have tissues there for you if you need them. I
17 have read your statement in the sentence memorandum, but
18 anything else you'd like to say, go right ahead.

19 DEFENDANT ROBINSON: Thank you, Your Honor.

20 Your Honor, today I stand before you with an
21 abundance of guilt, regret and shame resulting from the sick
22 and terrible crimes that I've committed.

23 Before going any further, I feel it is of the utmost
24 importance that I offer my sincere apologies to all of the
25 victims of my crimes.

1 It has been over two years since the search warrant
2 was executed at my property during which State of Minnesota and
3 local law enforcement officials seized computers and electronic
4 devices from my home. Since that day, a day has not gone by in
5 which I have not felt an enormous amount of guilt for the pain
6 I have surely caused the victims of my crimes and their
7 families. I've thought literally thousands of times if I could
8 rewind my life, I would certainly do whatever necessary to
9 avoid -- sorry -- participating in the behavior that I was
10 taking part in.

11 I do not at all enjoy the thought of causing another
12 person either physical or emotional pain. In fact, it makes me
13 very sad that my thinking came to be so distorted that I was
14 seeing humans as simply emotionless objects.

15 My actions were extremely wrong, sickening and worthy
16 of a stiff punishment. The guilt and shame I feel daily for
17 everyone I have hurt will always serve as a reminder of my
18 actions. I am certain I will regret my actions deeply until
19 the day that I die.

20 To all of the victims and their families, friends and
21 any of their loved ones that I have affected through my crimes,
22 I'm truly sorry.

23 I promise that for rest of my life I will assist law
24 enforcement in any way possible so that the instances of this
25 type of crime may be reduced.

1 As a father of two children myself, I realize there
2 may be nothing I can possibly do to redeem myself in the eyes
3 of the victims, the law, the victims' families and even society
4 as a whole, but again, if there is anything I can do to assist
5 the prevention of this type of crime moving forward, I'm
6 certainly hoping that I'm able to help.

7 It is my sincere hope that this sentencing procedure
8 will be a valuable step in the healing process for all of the
9 victims of my crimes.

10 Along with the victims and their families who have
11 been directly affected by my actions, there are many additional
12 people that have been impacted as a result of these crimes. I
13 would like to apologize to my numerous friends, former
14 employees, co-workers and of course my family. To my mom
15 Marcy, sister Lisa, brother Brian and my ex-wife Tara who drove
16 through the night from Minnesota to support me here today, I'm
17 so sorry and so thankful for your love and support.

18 Tara, I'm really sorry to have to put you in a
19 position of raising our kids yourself. I'm so thankful that
20 they have you.

21 To my dad Charles, my daughter Taylor and my son
22 Trevor back home in Minnesota, I am so sorry for the pain and
23 suffering I'm putting you all through.

24 All of my family means the world to me, and besides
25 the pain I have caused the victims and their families, the

1 guilt and shame I feel every day for what I am also putting my
2 own family through is enormous.

3 To all victims, including my family, this is my
4 fault. I have no one to blame but myself for not seeking
5 professional help earlier than I did. Because I did not, I
6 have caused so much suffering to so many people.

7 I love you all more than words can describe and I
8 feel so blessed to have a family that has given me so much
9 support and unconditional love during this time even though I
10 so often think how I don't deserve that love.

11 My heart is broken for all the pain I've caused both
12 the victims and my family. I'm so sorry and I love you all so
13 much.

14 As a person, I'm extremely ashamed of what I've done.
15 There are absolutely no excuses for my behavior. I would do
16 anything to get a chance to rewind my life and undo all of the
17 pain that I've caused so many people. Never in my life did I
18 imagine that I would be the cause of so much pain and
19 suffering, and at no time in the future do I want to ever hurt
20 anyone again. I will always make sure to maintain the
21 self-awareness of how terrible it feels to hurt someone so that
22 I never do anything to hurt someone again.

23 Since June of 2016, I have committed to live the rest
24 of my life maintaining a high moral code and exceptionally high
25 level of integrity, self-accountability and generally living in

1 a way that is a positive influence on others 100 percent of the
2 time. I will try to redeem myself in any way possible. If
3 there are ways I can assist in prevention of this type of
4 victimization in the future, I will definitely make any
5 contributions that are possible and that I'm allowed to make.

6 I realize that I may have no redeeming qualities in
7 the minds of many people at this point. I'm a sex offender and
8 that is understandably how I will be viewed for the rest of my
9 life.

10 I'm also a person that under no circumstances want
11 to -- wants to hurt another person ever again.

12 I realize these are just words and actions are what
13 prove a person's intentions. I'm committed to allowing my
14 actions for the rest of my life be the actions of the good
15 person I wanted to be all along.

16 I promise everyone I have affected that I will strive
17 each day to learn to be a better person than I was the day
18 before. I will always treat every human being with the respect
19 and kindness that they all deserve. I'll ask God for the
20 guidance I need to be a good person for the rest of my life.

21 And finally, I again apologize to everyone that I
22 have affected with my actions. These words cannot begin to
23 explain how sorry I am not just leading up to today but how
24 sorry I will be for rest of my life.

25 Your Honor, I am hopeful that you will see a

1 possibility for redemption at some point in my future. Thank
2 you.

3 THE COURT: Thank you very much, Mr. Robinson.
4 Appreciate those words very much.

5 On behalf of the United States, Ms. Russo has the
6 opportunity to speak as to the appropriate sentence or other
7 factors that you'd like to analyze. Go right ahead.

8 MS. RUSSO: Thank you, Your Honor.

9 As with the other sentencing, I'd just like to
10 incorporate any of the victim impacts statements from this
11 morning and the Exhibits A through F.

12 To give a little bit of the background on Mr.
13 Robinson, in -- in about 2012 he joined a group of individuals.
14 You're going to hear that Mr. Eisley was also part of that
15 group. There were blackmailers in that group, not necess --
16 not Mr. Robinson or Mr. Eisley. And then in about 2014 he
17 joined the Skype Group which Your Honor knows a lot about, and
18 up until June of 2016 he was a very active member of that
19 group.

20 But HSI discovered that this defendant, Mr. Robinson,
21 was distributing child pornography on a peer-to-peer network.
22 So without knowing about our investigation, we hadn't located
23 Mr. Robinson yet, they executed a search warrant at his
24 residence in June of 2016.

25 Now, the day before that search warrant was executed,

1 Mr. Robinson was communicating with a Skype Group, he was
2 producing child pornography of minors, but that search warrant
3 took place and they didn't arrest him. They took his devices
4 and they didn't charge him. They started to look through the
5 devices to see whether charges would be forthcoming.

6 During that time Mr. Robinson did go to a therapist,
7 Your Honor, and he did make those payments to NCMEC that he
8 spoke about. However, before that time, before our arrest
9 warrant and our criminal complaint, before we found him, he
10 also went back to the website, he went back to Website A, Your
11 Honor, multiple times. And he did that from work because he
12 didn't have any electronic devices at home and so the only
13 place that he could log on now was from work since HSI had
14 taken his devices.

15 So while I think it is very laudable that he's making
16 these payments to NCMEC, I think it's important to note while
17 he's in therapy, while he's making those payments, while he
18 knows a federal investigation is taking place of him, he is
19 back on this website where children are being exploited, the
20 purpose of the website being to exploit children. And if you
21 note, even his therapist said that months prior to our arrest
22 of this defendant, before we located him, he goes back to
23 pornography and dating websites.

24 So while I a hundred percent believe that Mr.
25 Robinson is remorseful and I don't believe that of the other

1 defendants frankly, Your Honor, I -- I believe Mr. Robinson's
2 remorse is sincere. I have seen it from the very beginning of
3 this case. I saw it while all the victims spoke. He was the
4 only defendant who wasn't stoic while these victims were
5 pouring out their hearts, so I believe it is sincere. But I
6 believe he has an addiction that he cannot control because even
7 under investigation, he went back to this website, he went back
8 to these types of websites that he knew he wasn't supposed to
9 be on.

10 For Mr. Robinson having been a part of these two
11 groups, having recorded many of these girls engaged in
12 bestiality and enticement to engage in bestiality, these are
13 the numbers: 28,700 exploitive images and videos.

14 A total length of videos of 666 hours.

15 This defendant had over 250 videos of MV-21 who Your
16 Honor knows is present in the courtroom today who we read her
17 statement, her father spoke to Your Honor.

18 He had 96 videos of MV-8. This is the minor whose
19 father spoke today, Your Honor.

20 He had a dozen, more than a dozen videos of MV-10
21 whose mom spoke to you too, Your Honor, today.

22 So this is a defendant who is very, very, very active
23 in this conspiracy up until the day when investigators took
24 away his devices.

25 He has a number of statements from family and friends

1 and those statements are extremely compelling, Your Honor. I
2 think the most compelling one is probably from his daughter.
3 But the problem with that statement in my mind is that while
4 this defendant was doing his daughter's hair and her nails, he
5 was talking about putting up a webcam so he could spy on her
6 teenage friends getting undressed and he was talking about how
7 he wished he could get nude photos of her teenage friends.

8 And even while this defendant was at work, he was
9 engaged in this activity, so we find many, many of his logons
10 to Website A from his work. And this chat where he's engaged
11 in trying to entice Minor Victim 8 to engage in bestiality with
12 her pet dog is when the defendant ends the conversation by
13 saying, "Okay. Well, I've" -- you know, to entice this girl to
14 engage in bestiality, "I've recorded it. Now I'm going to get
15 back to work." And that's sort of the attitude that he had
16 about what he was doing.

17 His ex-wife writes that he would never harm anyone,
18 and I believe all these statements are so sincere and that he
19 has such a good family and his family is so supportive, but
20 this defendant was living a double life. He wasn't just
21 deceiving these young girls but he was deceiving his ex-wife,
22 he was deceiving his family.

23 This is the type of things that he was saying to
24 MV-10 right after MV-10 told him that she was cutting herself.
25 MV-10, it was a minor. He was very reluctant to engage in

1 sexual activity, who kept telling them how scared she was, how
2 she didn't know how to do it, and they were telling her how to
3 masturbate, they were teaching her what to do, how many fingers
4 to use, Your Honor. And this defendant is Spencer in this
5 conversation and he's the one egging her on along with a couple
6 of the other defendants.

7 So he knew that these girls were hurting, he knew
8 that they were engaged in self-harm, and yet these are the
9 types of things that he would say to them. So for -- for me, I
10 don't believe that he would never harm anyone because he did
11 harm, he did harm them knowing that he was harming them and
12 continued the activity.

13 Again, Your Honor, this is not -- the defense makes
14 the argument here that this is just an aberrant act, that he
15 has no criminal history, but again, this is something that went
16 on for more than four years with this specific defendant. It
17 was six years for him, and on a nightly basis he was doing this
18 for hours at a time.

19 Okay. I want to move on from -- to the evaluator
20 because the evaluator makes a couple of comments about Mr.
21 Robinson. She said he's a moderate risk under the Stable-2007
22 test and she says that he's low risk under the Static-99. She
23 fails to score male victims under the Static-99, which is just
24 an arithmetic error. There are male victims in this case. Mr.
25 Robinson looped to girls pretending to be a teenage boy, and

1 those boys engaged in masturbation that he used their videos to
2 convince these girls he was a teenager. And so with that, he
3 would be a 4 and he would be moderate risk also under the
4 Static-99.

5 I should mention the Static-99 is based on conviction
6 data, Your Honor, and not on prior offense data, so the
7 government has some issues with it to begin with. But even
8 under the defense version of that test, he is a moderate risk
9 offender.

10 These are some of things that his therapist said
11 which I think are a lot more helpful than these tests that I --
12 that I think are of questionable validity. She said he has
13 sexual deviance, compulsive behavior, substance abuse,
14 addiction to child pornography, he's attracted to 12 to
15 17-year-olds, and as I mentioned, Your Honor, he returned to
16 pornography after having the search warrant executed.

17 I do think though that in his favor a mitigating
18 factor when we look at his risk is his remorse. I a hundred
19 percent believe that if any of these individuals are going to
20 stop themselves from continuing to commit these types of
21 offenses, they have to be remorseful, and Mr. Robinson has
22 that.

23 The BOP designation argument I wanted to get to
24 because the defense had made this argument that if the
25 defendant receives a sentence of over 24.25 years, that he will

1 not be able to remain near his home, and, Your Honor, that's
2 not true. There is a facility that is a few hours from his
3 family, FCI Oxford, which he could easily be in regardless of
4 what sentence Your Honor was going to impose today. But also
5 the facility FCI Sandstone that the defense recommends is not a
6 facility with a sex offender treatment program, so I think that
7 would be problematic anyway. So I just wanted to explain that.

8 And the final point I want to make for Mr. Robinson
9 is he -- he did have anxiety as a child, he did have
10 depression, and I acknowledge that, Your Honor, but that's true
11 of 20 percent of Americans, and -- and that doesn't justify
12 those 20 percent of Americans going out there and exploiting
13 children. There's no empirical data to suggest that just
14 because you're anxious and depressed you have to exploit
15 others. And unfortunately what Mr. Robinson has guaranteed by
16 his actions is that each and every one of these minor victims
17 who are 13, 14, 15-year-old girls are going to have anxiety and
18 depression, are going to suffer from the same things that he
19 suffered with as a child.

20 And so for those reasons, Your Honor, the government
21 requests a sentence of 40 years.

22 THE COURT: Okay. Thank you very much and thanks to
23 both of the lawyers who I think have made balanced and very
24 effective presentations and advocacy of their respective
25 client's positions.

1 Once again I will address the sentence I intend to
2 give and then give the lawyers final opportunities to make
3 objections before the sentence is imposed.

4 If we're talking about a departure from a -- or,
5 excuse me, a variance from a term of life in prison, overall
6 Offense Level 43, Criminal History Category I, I would -- I
7 would look to the following factors, a couple of which were
8 identified by Ms. Russo, and in many ways I see the case as --
9 as she does.

10 I -- I believe the defendant was a victim of -- of
11 severe addiction and, you know, these are medical issues.

12 One of the things I have to say is that without in
13 any way saying that the -- that the criminal activity doesn't
14 qualify for the maximum sentence urged, at -- at the time that
15 the individual is committing the criminal activity which has to
16 be punished, which has to be disincentivized and which has to
17 be appropriately dealt with from the perspective of punishment
18 and deterrence, the -- the -- the individual is, if addicted
19 and if soulless, probably not in the position to understand at
20 the time what he understands now.

21 And so when we sentence an individual, we have to
22 sentence based on the conduct that occurred at the time, but I
23 think we have to take into consideration the potential for
24 rehabilitation and give credit where credit is due for people
25 who have at least had some sort of an epiphany, and I believe

1 Mr. Robinson has and I believe that Mr. -- Ms. -- Ms. -- Ms.
2 Russo under -- understands that.

3 A rational person who's well could not live the sort
4 of compartmentalized life that Mr. Robinson was living by, as
5 both lawyers have pointed out, saying the types of things that
6 he was saying to his daughter and loved ones on the one hand
7 and -- and then doing the things that he was doing criminally
8 on the other. Clearly, I think this is why we see an
9 individual here with the anguish that he has because I think he
10 has indeed rationally looked at the events in which he was
11 involved and confronted what it was that he did. And so I
12 think the opportunity at rehabilitation and the opportunity at
13 getting better are there.

14 Now, again, that's not to diminish the severe
15 criminal activity in which Mr. Robinson engaged when he was
16 drunk, when he was soulless, when he was whatever he was, and
17 we have to address that, but it's not hard for me to enter a --
18 a little more of a, what would you say, variance because I
19 think this individual's prospects are good as long as you stay
20 in AA and as long as you stay with the treatment and as long as
21 you feel years from now the way you feel here today.

22 Okay. Pursuant to the Sentence Reform Act of 1984,
23 the Court considered the sentence guidelines and factors in 18
24 USC, Section 3553(a) and I will hereby commit the defendant,
25 Eric Robinson, to the custody of the U.S. Bureau of Prisons for

1 a term of 408 months.

2 It's further recommended that the defendant be
3 designated to an institution with a comprehensive sexual
4 offender treatment program. I'm not going to take an issue or
5 position on the issue of Sandstone versus Oxford, but it seems
6 to me that if Oxford's close to the family and has sex
7 treatment option, that's the type of facility I would want to
8 recommend to the Bureau of Prisons.

9 Upon release from imprisonment, the defendant shall
10 be placed on a supervised release term of ten years.

11 The defendant must pay a special assessment of a
12 hundred dollars. That will be due immediately.

13 It's ordered that the defendant pay Justice For
14 Victims of Trafficking Act assessment of \$5,000.

15 Parties agree to a restitution amount of \$5,000
16 per -- per identified victim, and I take it that's \$215,000 in
17 this case, Ms. Russo?

18 MS. RUSSO: Your Honor, because he is in two groups,
19 it would be 235,000.

20 THE COURT: 235,000 total. By agreement, that
21 restitution amount will be imposed. No interest, penalty or
22 fees on the restitution amount.

23 No fine, no costs of incarceration, no costs of
24 supervision due to the defendant's rather complete lack of
25 financial resources.

1 While in custody, the defendant must participate in
2 the Inmate Financial Responsibility Program, IFRP. I'm aware
3 of the requirements of that program and I approve of the
4 payment schedule of the program and will hereby order the
5 defendant's compliance.

6 Mandatory drug testing is suspended based on the
7 determination that Mr. Robinson poses a low risk of future
8 substance abuse.

9 While on supervision, the defendant shall abide by
10 the standard conditions adopted by the U.S. District Court for
11 the Eastern District of Michigan, and he shall comply with the
12 following -- all the following special conditions which are the
13 14 complete conditions that I imposed on Mr. Kovac and Mr.
14 Meija and which I won't repeat here but will incorporate fully
15 by reference along with the following four additional specific
16 conditions:

17 Defendant shall have all employment pre-approved by
18 the Probation Department. If the employment requires the use
19 of a computer, the defendant must notify his employer of the
20 nature of the conviction and the notification must be confirmed
21 by the probation officer.

22 The defendant shall not own or possess a camera,
23 photographic device and/or equipment, including video recording
24 equipment, without prior approval of the probation officer.

25 And due to the mental health issues that have been

1 discussed here and in the report, the defendant shall submit to
2 psychological and psychiatric evaluations as determined by the
3 probation officer if necessary.

4 That will be the sentence of the Court unless there
5 are objections. Ms. Russo?

6 MS. RUSSO: No objection, Your Honor.

7 THE COURT: Mr. Hayes?

8 MR. HAYES: No, Your Honor. If the Court would
9 indulge us though, we would request that he be recommended to
10 go to the facility in Marion, Illinois. They have a sex
11 offender program and I believe that'd be the closest.

12 THE COURT: Marion, Illinois is fine with me but
13 let's make sure he's not in the maximum facility.

14 MR. HAYES: It's a medium, Your Honor --

15 THE COURT: All right.

16 MR. HAYES: -- with the SOTP Program. Thank you.

17 THE COURT: Okay. Very good. I would accede to
18 that, and you should let the Bureau of Prisons know when they
19 make their placement decision that, you know, I want what's
20 best for him, and I'm sure they know that, but if -- if Marion
21 is the best place for him, that would be best for society as
22 well in my opinion.

23 Mr. Robinson, you waived the right to appeal your
24 sentence and your conviction in your Plea Agreement. Since I
25 sentenced below the guideline range, that makes your sentencing

1 waiver effective.

2 Waivers of this sort are usually enforceable. If you
3 don't think that yours is, you can take that up with the U.S.
4 Court of Appeals directly.

5 The defendant will be remanded to the custody of the
6 marshal to further complete the service of his sentence.

7 It looks like the corrections of the Pre-Sentence
8 Report have already been made so corrected copies will all be
9 sent down to -- except for that counsel issue, we need to
10 correct that, and then the final reports will be sent to the
11 Bureau of Prisons and the Sentencing Commission. Any other
12 copies are to be kept strictly confidential as is the practice
13 of the district.

14 Anything else from Ms. Russo?

15 MS. RUSSO: Your Honor, we'll move to dismiss
16 Counts 2 through 4 of the indictment at this time.

17 THE COURT: 2 through 4 are dismissed on order of the
18 Court without objection.

19 Anything else from Mr. Hayes?

20 MR. HAYES: No, Your Honor, thank you.

21 THE COURT: Okay. Good luck to you. You're
22 ultimately going to be okay but keep on a good path, okay?

23 DEFENDANT ROBINSON: Thank you.

24 THE COURT: All right. You're welcome.

25 (Proceedings concluded at 1:46 p.m.)

1 Detroit, Michigan

2 Tuesday, July 17, 2018

3 — — —

4 (Proceedings commenced at 1:46 p.m., all parties
5 present)

6 THE COURT: All right. Now we'll go to our final one
7 because we've got to be out of here in an hour. Mr. -- Judge
8 Goldsmith needs this courtroom.

9 So what is next, Ms. Russo?

10 MR. MULCAHY: Your Honor, may we approach?

11 THE COURT: Yes. On the record?

12 MR. MULCAHY: Off the record.

13 (Brief discussion held off the record)

14 THE COURT: Let's recess til 2:00 o'clock, all right?
15 10-minute recess.

16 (Court in recess at 1:48 p.m.)

17 (Proceedings resumed at 2:05 p.m., all parties
18 present)

19 THE COURT: All righty. Good afternoon. We are here
20 now for the sentencing of Bret Massey, which is Defendant
21 Number 3 in 17-20632.

22 MS. RUSSO: Your Honor, actually I -- we've switched
23 things around. This is our fault. It's Noel Eisley, Your
24 Honor.

25 THE COURT: Oh, Noel Eisley. I'm sorry about that.

1 Actually I knew that. I mis -- I mistook -- you want to enter
2 your appearance there, Ms. Raben?

3 MS. RABEN: Yes. Good afternoon, Your Honor,
4 Margaret Raben on behalf of Noel Eisley who sits to my left.

5 THE COURT: Okay. Thank you both very much.

6 Let me invite you, Mr. Eisley, along with your
7 counsel, Ms. Raben, to come on up to the microphone and we'll
8 get started here.

9 Have you, sir, had an opportunity to thoroughly
10 review the Pre-Sentence Report, including any revisions that
11 might have come out after it was first published by the U.S.
12 Probation Office?

13 DEFENDANT EISLEY: Yes, Your Honor.

14 THE COURT: Okay. Very good. I understand there are
15 some objections, four or five of them, that I'd like to go
16 through now, and we'll give both lawyers an opportunity to
17 speak to the objections.

18 With regard to paragraph 17, the defendant objects to
19 some of the findings of the Probation Office with regard to
20 some of the materials that were allegedly on the videos,
21 specifically I guess some stuffed animals. The -- I mean I
22 don't know how to resolve this. I don't think it goes to the
23 computation of the guideline range. It really goes to the
24 ownership and some surrounding facts regarding what was on the
25 videos. And aside from having an evidentiary hearing on a

1 matter that doesn't affect the guideline range, I wouldn't know
2 how to resolve it.

3 So I would say I'll accept the objection, note it for
4 the record, have it included in the Pre-Sentence Report, but
5 not take a position other than that the government contends
6 that these are accurate and should the Bureau of Prisons or
7 anybody else want to look into the offense conduct they can,
8 but that would be my tendency on -- on Objection Number --
9 Number 1.

10 Ms. Raben?

11 MS. RABEN: Actually, Your Honor, I was going to --

12 THE COURT: Sorry about that.

13 MS. RABEN: I was going to address that as part of my
14 sentencing --

15 THE COURT: Okay.

16 MS. RABEN: -- response.

17 THE COURT: All right. Well, I'll just note the
18 objection then and -- and you can certainly say what you like
19 within your allocution, okay?

20 MS. RABEN: Yes.

21 THE COURT: All right. Very good. With regard to
22 Objection Number 2, we're talking about the two-sentence
23 enhancement under 3A1.1(b) (1). This is the vulnerable victim
24 enhancement.

25 It was my sense that the government and the defendant

1 had -- had agreed to this but apparently they hadn't. Oh, no,
2 I'm sorry, the defendant did agree with the enhancement applied
3 by accepting the attached worksheets to the Plea Agreement.

4 I would rule as a legal matter that the enhancement
5 deals directly with individuals who are unusually vulnerable
6 due to age or mental condition, and you might argue that at
7 a -- at a reduced age, 12, 14, 11, whatever these girls were,
8 they'd be particularly susceptible to -- to criminal conduct.
9 But again, I won't overrule the objection until and unless I've
10 heard further argument from Ms. Raben. Would you like to say
11 anything else?

12 MS. RABEN: Your Honor, I -- I am now better informed
13 about the factual basis for that two-point enhancement.

14 THE COURT: Right.

15 MS. RABEN: And I will withdraw that objection.

16 THE COURT: Okay. All right. Thank you very much.
17 Objection Number 2 is withdrawn and we won't rule on that.

18 With regard to paragraph 35, the defendant objects to
19 the enhancement regarding a pattern of activity involving
20 prohibited sexual conduct. I think this goes to an argument
21 that the U.S. Attorney made earlier on one of the defendants; I
22 don't remember which. But this deals with the classic legal
23 issue of whether or not an enhancement is an element of the
24 criminal activity to which the individual pled guilty, and so
25 therefore does application of the enhancement double dip. I

1 think the Court of Appeals has traditionally said that it
2 hasn't, but the government lodged a response and the probation
3 officer lodged a response as well. But I would be eager to
4 hear from you about Objection Number 3 and the 2G1.6 -- or
5 excuse me, the 2G -- excuse me, 4B1.5(b) (1) enhancement. Go
6 ahead, Ms. Raben.

7 MS. RABEN: Thank you, Your Honor.

8 I actually addressed that as one of my arguments for
9 the -- for a variance. I do think that it's double counting.
10 I have not found a case that says one way or the other that
11 it's double counting. I look at the definition or the criteria
12 for 4B1.5 and I see that it fits as a subset -- I would think
13 of it as a Venn diagram subset -- of the elements of the CEE.

14 I agreed that it was scored as part of Mr. Eisley's
15 sentencing guidelines because I cannot find anything that says
16 that it is not properly scored, and the guidelines themselves
17 in I think it's 1B1.3, addresses double counting and says yes,
18 there is going to be double counting and it's okay unless we've
19 specifically said that it's not okay. And this is one of those
20 situations where I don't find anything that says that it's not
21 okay to score it as the guidelines.

22 THE COURT: Right.

23 MS. RABEN: But I am still struck by the fact that it
24 adds five levels onto the -- the same basic conduct. I've
25 heard Ms. Russo's argument that, well, no, it addresses all of

1 the other possible victims. I don't see anything in 4B1.5 that
2 says, oh, this is how you use that.

3 THE COURT: Right.

4 MS. RABEN: So I have made it both as a double
5 counting argument or as what I call a piling on argument.

6 THE COURT: Yes.

7 MS. RABEN: An argument where the guideline range is
8 excessive because of the way the guidelines themselves score
9 various aspects.

10 THE COURT: Okay. All right. I understand the
11 argument. Having listened to Ms. Raben and thought about
12 things, I know now that Mr. Satawa made a highly similar
13 argument, did not object to the guideline range but suggested
14 that the five-point enhancement was enrolled within the
15 prohibited conduct by statute itself. It is a valid argument
16 and again I -- I understand it.

17 The issue of the cross-reference was addressed by the
18 U.S. Attorney in -- in their response, and I will hear from Ms.
19 Russo if she wants to speak, but my instinct now is to overrule
20 the objection in the absence of any guidance from the Court of
21 Appeals and it appears to be a standard enhancement that's
22 made, but certainly keep my mind open to the argument of
23 counsel in terms of what the appropriate sentence would be when
24 we consider that 2426(b) (1) (A) deals with prohibited sexual
25 conduct. That is part of the code section under which Mr.

1 Eisley was charged, and the -- the -- the guidelines would seem
2 to give five additional levels for engaging in that very type
3 of -- of conduct.

4 Is there anything else you want to say, Ms. Russo?

5 MS. RUSSO: Your Honor, I'll just make two quick
6 points. One is I know there's been some confusion about this,
7 but there's a pattern of activity enhancement in all of the
8 child pornography guidelines. It's not embedded in the CEE or
9 production guidelines; instead it's in the 4B1.5(b). But if
10 you go to receipt or distrubution, they have the same
11 five-point enhancement; it's just embedded in their guideline.
12 So it's -- this is -- I know that it -- it's caused some
13 confusion, but it really is -- in every child pornography case
14 it is -- it is applicable.

15 And just the second point I'll make, Your Honor, is
16 that were we to have charged an indictment with, let's say,
17 MV-1 and MV-2 and those were the only victims in the case, this
18 idea of sort of double counting would make a little more sense
19 to me, although I think it would still be an incorrect argument
20 and -- and wouldn't prevail. But in this situation, Your
21 Honor, all of these victims, the hundreds of victims, the 48
22 identified victims, they're not all charged in the indictment,
23 they're not the basis of the elements.

24 THE COURT: Right.

25 MS. RUSSO: So that's all, Your Honor.

1 THE COURT: All right. Well, that's what Ms. Raben
2 had anticipated earlier.

3 But any response to what the government prosecutor
4 said?

5 MS. RABEN: Just that it is still piling on.

6 THE COURT: Yeah. Okay.

7 MS. RABEN: Okay.

8 THE COURT: All right.

9 MS. RABEN: And I'll address that a little bit later
10 when I talk about the guideline range.

11 THE COURT: Indeed. All right. Thank you very much,
12 Ms. Raben and Ms. Russo.

13 The Objection Number 3 will be overruled and Ms.
14 Raben will argue the issue in her allocution as mentioned.

15 Objection Number 4 and 5 go to computation of the
16 offense level in light of the objections made in paragraphs 34
17 and 35. Therefore, I will note Objections Number 4 and Number
18 5 and not rule on them because they're inoperative in light of
19 the Court's prior rulings.

20 And I believe that takes care of the written
21 objections to the Pre-Sentence Report lodged by Ms. Raben and
22 addressed by both the U.S. Attorney and the probation officer.

23 So with that in mind, any other objections,
24 corrections, or issues with the Pre-Sentence Report you'd like
25 to make at this time, Ms. Raben?

1 MS. RABEN: No, sir.

2 THE COURT: All right. How about you, Ms. Russo?

3 MS. RUSSO: No, Your Honor. Thank you.

4 THE COURT: Okay. Thank you both very much for your
5 arguments.

6 The Offense Level is 43. The Criminal History
7 Category is I. The guideline range at that level is life
8 imprisonment and the Plea Agreement reflects a similar term.
9 So those will be the factual and legal findings of the Court
10 from the Pre-Sentence Report for purposes of this sentencing
11 only.

12 I do have the sentence memorandum of Ms. Raben. It's
13 extensive and it also contains a number of exhibits, mainly and
14 significantly, how would you say it, analytical in nature.
15 There have been a couple of reports of medical professionals
16 along with the CV of one of them, an extensive mental health
17 examination and report. I've looked at all this. And at the
18 back there are some letters and, in fact, a -- a lengthy letter
19 from the defendant himself, Mr. Eisley. So I have read all
20 those materials.

21 I have the government's sentence memorandum as well
22 as their supplemental memorandum.

23 I've heard the victims' statements which are part and
24 parcel of the hearing and incorporated by reference.

25 The Preliminary Forfeiture Order has been resolved,

1 that's taken care of.

2 Restitution is agreed upon to be \$5,000 per victim.

3 There is no room for a fine or costs of incarceration
4 or things of that nature in light of the defendant's lack of
5 financial resources.

6 And I think that covers all the bases of our
7 preliminary matters before we get to allocution on behalf of
8 the defendant by Ms. Raben.

9 As the lawyers know, counsel for a defendant or a
10 defendant through counsel has the absolute right to make any
11 remarks on his own behalf before sentencing, and I'd be very
12 glad to hear yours now, Ms. Raben. Go right ahead.

13 MS. RABEN: Thank you, Your Honor.

14 The first thing I'm going to say is I am not adopting
15 any of the arguments of the other attorneys, one, because I
16 don't know what they are, I'm not privy to those arguments, and
17 two, what I have heard from their own allocution are arguments
18 that, in fact, I considered and decided not to raise myself.

19 So I would like to start by making some comments
20 about the government's sentencing memorandum and some broad
21 statements that the government had made about the enterprise
22 and the conduct of the enterprise. I'm not disagreeing with
23 the conduct of the enterprise as described by the government,
24 but I want the Court to know that the -- on page 6 of the
25 government's memoranda when it speaks about one Website A user

1 and one Skype Group member discussing various ways the
2 enterprise interacted with the minor victims, I have no
3 information that Mr. Eisley was -- was targeting minors who
4 were engaging in self-mutilation, and while I don't disagree
5 with the broad statements of how the enterprise was acting, I
6 do disagree that he himself was doing this. And we have --
7 that's the first thing.

8 The second thing is on page 15 which is a specific
9 statement about Mr. Eisley, and it states that he had a -- the
10 longest child pornography video he had was 66 hours and
11 33 minutes. Mr. Eisley says that is simply not true. There
12 might be something on the identifier of the video that says
13 it's that long, but it is not that long as a matter of fact.
14 If the government has actually a video that's 66 hours and 33
15 minutes long, they have not shown it to me, and I -- I -- I
16 don't know, that just seems so off to me as -- as a factual
17 matter.

18 On page 23, again, there's a reference to a video of
19 66 hours spanning -- and the total video length spanning
20 780 hours. Mr. Eisley disputes that.

21 There's a characterization that he titled videos.
22 And make no mistakes, Mr. Eisley is addicted to child
23 pornography, that is absolutely clear, and it is clear separate
24 from the -- his conduct with the -- the enterprise. And he
25 had -- has a -- had a collection of these videos. He denies

1 that he titled any of them in any way. They come titled. When
2 you download them, they come with a title and the titles are --
3 are horrifying. The titles are what the government has stated
4 on page 23. But he did not title them in that way.

5 I've taken a look at the government's recommendation
6 chart here, and, of course, the Court's been talking about it
7 pretty much this morning also, and I'm just trying to figure
8 out what principal difference there is between 40 years for Mr.
9 Eisley, 35 years recommended for Mr. Massey, 30 years
10 recommended for Mr. Phillips, and I -- I don't see it. I --
11 I -- I just see a -- more similarity than difference between
12 the three of them and certainly not enough difference to
13 justify a 10-year differential in the government's
14 recommendation.

15 On page 30, 30 of the government's recommendation
16 they talk about something that is characterized as sextortion
17 victimization. There is no evidence that I am aware of that
18 Mr. Eisley did any blackmail or threatening or extortion or --
19 or any individualized contact with the minor victims in the
20 enterprise as a way of getting them to do or not do something
21 else. It is my understanding that there was such conduct, and
22 Mr. Eisley told the government during his proffer that he had
23 heard about it, he had heard that one or two identified people
24 were doing this, and he gave the names of the government -- to
25 the government of the people that he had heard were doing this.

1 But to -- to ascribe that behavior to Mr. Eisley I
2 believe is factually wrong, and I'm hoping that the Court will
3 not assume that because he's part of the enterprise, he was
4 also part of this -- this other piece. In fact, Mr. Eisley was
5 under the impression that none of these men were to be
6 contacting any of the minor victims themselves for any reason.
7 That was one of the so-called rules for interacting here. All
8 right. And -- and I've already addressed that, and that goes
9 on to page 31.

10 I'd also like to comment on the govern -- one of the
11 government's exhibits. This is Exhibit E to its original
12 sentencing memorandum and it's this two-page printout of
13 certain rules. Mr. Eisley had never seen this until the
14 government showed it to him during one of his debriefings and
15 he told them he had never seen it. And if he's never seen it,
16 I don't think that it was as much a part of the enterprise as
17 the government is trying to say that it was.

18 So that's -- oh, wait, I have one more thing here.
19 In the government's supplemental memorandum and reply they
20 dispute a statement I supposedly made about Mr. Eisley getting
21 off of the video chat rooms. Mr. Eisley got himself off of the
22 video chat rooms but he remained online in other activities.
23 He disclosed those activities to the government during his
24 proffer.

25 My understanding is that the government was not aware

1 of his activities on other websites which were not CEE
2 activities, and if, in fact, he's going to be -- the government
3 is going to use that information he provided during his
4 Kastigar proffer, I would argue that that is -- that is, in
5 fact, a violation of his Kastigar proffer. What I said in my
6 memoranda is that he left Websites A and B about a year before,
7 and that's what he maintains that he did. He fully
8 acknowledges and acknowledged to the government that he had not
9 stopped his online activity.

10 The next thing I would like to address is an exhibit
11 that the government provided to the Court today, Exhibit B.
12 It's a color photograph of two stuffed animals --

13 THE COURT: Yeah.

14 MS. RABEN: -- with the Band-Aids.

15 THE COURT: Yeah.

16 MS. RABEN: This photograph was taken during the
17 search warrant at Mr. Eisley's house. The stuffed animals
18 there belong to his daughter who was four years old at the
19 time. The government finds something alarming about these
20 photographs. Mr. Eisley's wife, or perhaps better
21 characterized now as ex-wife, told me that their daughter was
22 in her Band-Aid phase, that they probably bought two boxes of
23 Band-Aids a week and this child put Band-Aids on herself,
24 Band-Aids on her stuffed animals, Band-Aids on the furniture.

25 I can understand what the government's alarm might be

1 here, but Mr. Eisley's children were referred -- there was a
2 Protective Services case opened because of his conduct
3 occurring in the home where these children are.

4 THE COURT: Right.

5 MS. RABEN: The children were evaluated several
6 times. Nothing -- there is no evidence that anything
7 inappropriate was ever done to these children or that they
8 witnessed anything inappropriate. And so the government
9 continues to raise some alarm about these stuffed animals
10 except that I am not aware of any basis for any alarm in --
11 in -- in the evaluations of the CPS investigation that was done
12 in the children's placement.

13 THE COURT: Okay.

14 MS. RABEN: The government's opening lines of its
15 sentencing memorandum said it: Eisley is addicted, he is
16 obsessed with child pornography and online sexual activity.
17 That's what we have here. But he never recruited. He never
18 hunted. He never managed a website. He never monitored a
19 website. He never created a chat room for others to join. He
20 never directed any girls into a chat room. There's no evidence
21 that he ever distributed or shared his videos. He did not
22 contact any minor victim of the CEE directly. He did not
23 blackmail any minor victim, he did not threaten any minor
24 victim.

25 When I met Mr. Eisley and learned something about

1 him, I was stunned. I simply could not understand why someone
2 who had been gifted with his obvious intellect could -- could
3 get into this. I understood the computer addiction part of
4 this because it is toxic, it is absolutely toxic. You go
5 anywhere at all, you go to a mall and you watch and people are
6 stumbling around with their heads down and they are doing
7 something on their phones. They are on the Internet.

8 THE COURT: Right.

9 MS. RABEN: So I can understand the addictive -- the
10 attraction, the addiction to the computer stuff. What I
11 couldn't understand is why this.

12 THE COURT: Right.

13 MS. RABEN: So I was very interested in Dr. Jack
14 Haynes' assessment of my client because one of Jack Haynes',
15 Dr. Haynes' specialties is sexual addiction and that's what I
16 wanted him to focus on. And I was particularly struck by
17 the -- the finding in the Carson Psychiatric Profile Evaluation
18 in which Dr. Aines [sic] -- Haynes describes Mr. Eisley as Type
19 9, and here's the characteristic: "May at times function in
20 negative ways that are otherwise inexplicable." And that was
21 what I was looking for, some explanation for what was going on
22 in the double life that Mr. Eisley was living, and he
23 absolutely was living the double life.

24 He very clearly has an Internet addictive sexual
25 behavior disorder, and it can be identified, it can be treated,

1 it can be resolved. And even if the judge gives him a 20-year
2 sentence, 20 years is a long, long time. We toss that number
3 around as though it means nothing. It is a huge sentence by
4 any measure.

5 The other evaluations that I was looking for were the
6 evaluations for risk of recidivism and risk of actual sexual
7 contact offenses. In Mr. Eisley's case, both of those
8 evaluations by both of the evaluators come out as low risk for
9 recidivism both of a sexual offense or any kind of offense.

10 Like everyone else apparently, I have argued for a
11 variance sentence and I have argued for a variance sentence of
12 20 years, and I was not aware that everybody did but I'm not
13 surprised by that. And for my reasons, I have suggested that
14 none of the defendants in this case come out real good, but
15 within that spectrum of bad behavior, I do think that Mr.
16 Eisley's behavior vis-a-vis the other defendants in this case
17 puts him at the lower level of involvement.

18 I also think that his lack of criminal history -- and
19 I heard what Ms. Russo said. You know, this isn't lack of
20 criminal history, but that argument went to aberrant behavior,
21 and I have not made an aberrant behavior argument as a
22 departure basis because I understand what the definition of
23 aberrant behavior is under the guidelines and we don't have it
24 here because we do have years of conduct. But for someone with
25 his addictions to get to this point without ever coming across

1 the radar, the police radar in any way certainly indicates to
2 me that -- that he has been circumspect in how he's conducted
3 his behavior.

4 He cooperated with the government. He did everything
5 he could. It's not his fault that they interview him fairly
6 late in the investigation and he doesn't have anything new to
7 tell them.

8 THE COURT: Right.

9 MS. RABEN: Although I will note that the agents took
10 notes during both of the interviews so perhaps there was
11 something. Perhaps it was just things that never resulted
12 in -- in substantial assistance. But that isn't necessary here
13 for the Court to consider because the case law is that you can
14 consider his attempts to cooperate --

15 THE COURT: Right.

16 MS. RABEN: -- in good faith, which he did do.
17 Government says he didn't give them anything new. Well,
18 that -- he can only give them what he has. And if they already
19 have it, that's -- that's just a fact.

20 I've made an argument and we've talked about it here
21 about the double counting.

22 THE COURT: Right.

23 MS. RABEN: Piling on.

24 THE COURT: Right.

25 MS. RABEN: I -- I understand it's correctly scored

1 in terms of the rules for guidelines, but I -- I do think it's
2 piling on in this -- this particular case because -- primarily
3 because 2G2.6 is a one-offense guideline, probably the only
4 one-offense guideline that's -- that's in the guidelines. It
5 was created when the CEE offense -- the Sentencing Commission
6 added that guideline when Congress created the CEE offense in
7 the -- whenever it was, 2004, 2003, whenever they created the
8 CEE offense.

9 THE COURT: Right.

10 MS. RABEN: So I've listened to Ms. Russo talk about
11 defendants who are remorseful. Mr. Eisley has trouble
12 communicating. He has trouble communicating with me even after
13 all of these months of us talking. I can easily see how he
14 could adopt an online persona that was talky and verbal and
15 funny and -- and all of the other things that he was online.
16 I -- I -- I'm not a psychiatrist. I wasn't smart enough to go
17 to med school. But as a -- as a mother, as someone who deals
18 with people, I can really see how he got sucked into this,
19 especially given the -- the assessment of his -- the things he
20 thinks were deficiencies as a teenager, the -- the social
21 deficiencies that he had but didn't quite know what to do with
22 because there's a downside to being too smart, and he -- he
23 just couldn't figure out how to deal with any of this stuff.

24 I also know that he -- he could not seek professional
25 assistance because under New York law, a counselor or therapist

1 would be required to report him to police if he disclosed his
2 child pornography activities or the CEE activities. And that's
3 kind of a catch-22 for defendants who -- who realize that they
4 need some help: they can't extricate themselves from what
5 they're doing on their own but fear the cost --

6 THE COURT: Yeah.

7 MS. RABEN: -- of -- of seeking that help. So Mr.
8 Eisley's solution to that was to try to commit suicide, which,
9 of course --

10 THE COURT: Right.

11 MS. RABEN: -- is -- is not the solution. But it
12 also meant that when he did get psychiatric assistance after
13 that suicide attempt, he still could not really tell anyone
14 what the problem was.

15 So there we are, there we have it.

16 THE COURT: Right.

17 MS. RABEN: Thank you.

18 THE COURT: Thank you very much, Ms. Raben.

19 Appreciate those strong and incisive remarks on behalf of your
20 client which are very assistive to the Court.

21 And I would now recognize Dr. Eisley in his own right
22 to speak personally as to any remarks he'd like to make as to
23 the sentence or any mitigating factors at this time. Go right
24 ahead.

25 DEFENDANT EISLEY: Thank you. Thank you, Your Honor.

1 As my attorney already said, I'm not very good at
2 public speaking, but I did want to -- I wanted to express my
3 apologies to the victims and to their families for -- for all
4 the harm that I've caused. I have learned that I did cause
5 many people harm, but I think today hearing the statements
6 helps -- has helped me understand the -- the true nature and
7 the depth of the harm, and I know that I will carry the intense
8 guilt and remorse for what I did for every day for the rest of
9 my life.

10 And I hope that in contrast, the victims, my victims,
11 will some day, and hopefully sooner rather than later, overcome
12 what I've put them through. And I realize that that might not
13 be possible, but -- but I hope that at least every day it
14 brings them a little closer, and I hope that -- I hope that
15 today is a significant such day in their lives towards --
16 towards healing.

17 And lastly, I wanted to also apologize to my family
18 for turning their lives upside down forever.

19 Thank you, Your Honor.

20 THE COURT: Thank you very much, Dr. Eisley. I'm
21 grateful for those words.

22 On behalf of the United States, Ms. Russo, your
23 statement with regard to the appropriate sentence would be
24 greatly appreciated.

25 MS. RUSSO: Thank you, Your Honor.

1 I would incorporate the victims' statements from this
2 morning and the Exhibits A through F.

3 With respect to the -- the 4B1.5 argument I'll just
4 say one thing about that, Your Honor, which is -- I've already
5 made a couple of arguments on this, but if 4B1.5(b) was not
6 applied for -- for CEE cases, Your Honor, that would result in
7 production, one count of production for one victim having a
8 higher guideline range than CEE, or one count of enticement of
9 a minor, for one victim, having a higher guideline range. In
10 fact, distribution of child pornography might have a higher
11 guideline range, which would make absolutely no sense. So I
12 think that argument has been fleshed out enough.

13 I have three main topics I want to cover with respect
14 to Mr. Eisley. The first deals with the nature and
15 circumstances of the offense. And here, Your Honor, defense in
16 their memo mentions that we initially believed he was one of
17 the less egregious offenders in this group. And that's true,
18 Your Honor, because what we believed about Mr. Eisley was based
19 on the statements he had made on the day of the search warrant
20 and he wasn't forthright. And really that's Mr. Eisley's
21 story; he doesn't tell the truth. And that is why
22 unfortunately Ms. Raben has been told things that are not true
23 over and over and over again by Mr. Eisley, and -- and that's
24 part of the problem and part of what makes him so dangerous in
25 my mind, Your Honor.

1 So number one, he told Ms. Raben that he had left
2 this group for two six-month periods of time, and that
3 compelled me to file a reply to the sentencing memorandum, the
4 only reply that I filed for any of the six defendants, Your
5 Honor, because that is absolutely false. This defendant was
6 involved in this Skype Group chat exploiting minors on both
7 Website A and Website B during those two time periods that he
8 says he was gone from the group almost every day and engaging
9 in conversations about these girls that are absolutely horrific
10 in every way.

11 He says today that he did not know these girls were
12 self-harming. Absolutely false. He knew they were
13 self-harming. They made fun of the girls self-harming in these
14 chats, Your Honor. I attached many of them to my reply
15 supplemental brief where Mr. Eisley was talking during these
16 two time periods he says he wasn't.

17 Number three, Exhibit B, why did I give you Exhibit B
18 with these stuffed animals, Your Honor? Because Mr. Eisley did
19 tell us over and over again that there was nothing to these
20 stuffed animals that were recovered, but then he told his
21 evaluator, which was -- it was attached to the defense
22 sentencing memorandum in an exhibit, that he used these stuffed
23 animals as props to entice minors on Website A and Website B.
24 So he used stuffed animals from his home to entice these
25 minors. Now, I don't know whether the Band-Aids are related to

1 that or not, Your Honor, and I'm not arguing one way or the
2 other, but the fact that he never told us that despite being
3 asked many times about this is another thing that I wanted to
4 point out.

5 Your Honor, he also says that these videos, that he
6 didn't title them, Your Honor. They don't come titled because
7 he didn't download these videos. He recorded them himself and
8 he had to put a title on them. He could use the default title
9 which he did not do. Instead, he chose to title them in
10 horrific ways. And the fact that he denies that today is --
11 I -- just incredible to me.

12 That he didn't individually target any of these
13 girls? Your Honor, this is the defendant that did this. Out
14 of the six defendants, this defendant more than any other
15 defendant targeted girls one on one. How do I know that his
16 activity continued after October of 2016? Not from the
17 proffer, Your Honor, but because from the forensic review of
18 his devices what we learned after he made statements to us that
19 were not true was that he had been recording girls and
20 producing child pornography 10 days before the search warrant
21 was executed at his house, and he was talking to minors the day
22 before the search warrant, and that's from evidence recovered
23 from his computer, not from his proffer statements.

24 The rules that he says, Exhibit E, that he's never
25 seen before, those are from his computer, Your Honor, that's

1 where we got them is from his devices.

2 So those are just some examples, Your Honor, of the
3 things that he has told apparently his attorney but certainly
4 has told us that are not true about his conduct.

5 And this defendant, when we do look at his actual
6 conduct and the nature and circumstances of his offense, I
7 don't know about this longest video. Maybe he just left the
8 recording software on and that's why it recorded 66 hours. I'm
9 not saying that he purposely sat there at the computer
10 recording 66 hours.

11 But what we do know is he had 9,527 child exploitive
12 images and videos, 1,960 child pornography videos. This is a
13 year after he's told his wife he's quit this activity, he's not
14 doing this anymore, he's not talking to minors. She figured it
15 out and he told her he was stopping. This is what he's doing.
16 And this computer was found under his bed, Your Honor, under
17 the bed that he slept in every single night, that's where we
18 found all this.

19 Okay. I want to talk -- second topic is about the
20 very compelling letters on his behalf that were submitted by
21 family, by friends. It is very clear to me that this defendant
22 is extremely educated: Brown, Princeton, Ivy league schools,
23 incredibly intelligent, incredibly sophisticated. And it is
24 that intelligence that allowed him to keep committing this
25 crime and hide it from all of his family and all his friends.

1 They believed things about him that are completely inconsistent
2 with his online behavior, and I'll just give a couple examples.

3 He had a family member say he's always been gentle
4 and kind. And this is Eisley talking to a girl telling her to
5 put a hair bush in herself because that would make her feel
6 even better, telling her he's going to rip her panties off.

7 A family member who says he's extremely kind to
8 people and animals. And this is Eisley, and I attached this to
9 the reply brief, talking about a girl and how the group's going
10 to help her commit an abortion by tell -- because she's
11 pregnant, and so they're going to figure out -- and Eisley
12 says, "To be fair, preggo would qualify as girl problems."
13 Another group member says, "Someone give her a coat hanger,"
14 and Eisley says, "The plastic ones won't work though." So that
15 is not consistent with someone who's kind to people and
16 animals.

17 Another family member said, "Noel did not perceive
18 that the acts were harmful to the girls." Here's a girl
19 telling him that she's suicidal, and the following day he
20 says -- she says, "I'm never shoving anything up my vagina."
21 He says, "Never ever, not even pleasurable things?," and she
22 says, "Never ever ever ever." I didn't put this on here, Your
23 Honor, but you have the whole chat where he goes on to tell her
24 what to put in her vagina.

25 So, Your Honor, this defendant truly deceived them,

1 and despite all of the support he had from his family, he kept
2 doing this activity. Despite his wife telling him, "I'm going
3 to stay with you even though I've discovered that you're
4 chatting with -- with teenage girls," even after that he kept
5 doing this.

6 And that's what makes him so dangerous is that not
7 only did he deceive his family, his friends, these young girls,
8 me and -- initially when he told us things that weren't true,
9 and even his attorney apparently because she's written things
10 in her sentencing memorandum that I can only assume came from
11 him.

12 So the third topic I want to talk about is the
13 evaluations that were done of him. When we're looking at risk
14 of recidivism in these types of cases, the Sentencing
15 Commission says we look at sexual deviance and antisocial
16 behavior, those are the two things we look at. This defendant
17 had a Static-99 evaluation done. That evaluation again did not
18 account for male victims which should have been scored and did
19 not account for the fact that the victims here were strangers.
20 So those two points were added as they should have been. He
21 would have been a 3 instead of a 1.

22 Regardless, I think the evaluation is helpful, and I
23 think what the evaluators -- the two different evaluations he
24 had are helpful for a couple of reasons. They -- they help us
25 figure out whether there is these factors, antisocial behavior,

1 sexual deviance, whether there is a risk for recidivism, and
2 those factors are present.

3 So what did the evaluator say about Mr. Eisley? They
4 said he has an inability to control his behavior. That is a
5 classic antisocial behavior risk factor.

6 He's emotionally constricted. They wrote he is
7 capable of empathy, not that he had empathy, that he is capable
8 of it.

9 They wrote that he had sexual compulsion, sexual
10 addiction. They wrote that he had viewed thousands of child
11 pornography images starting at the age of 15 years old. Your
12 Honor, this defendant, while he's never been convicted, has
13 been committing crimes since he was an 18-year-old, he's been
14 viewing child pornography since then.

15 They wrote that he masturbated while viewing these
16 child pornography images and that he is socially isolated.

17 And as I mentioned, that he used these children's
18 stuffed animals that were in his house, his children's stuffed
19 animals, as props to entice minors to engage in sexual activity
20 online.

21 This defendant acknowledged that he had emotional
22 affairs with these girls, and one of his evaluators pointed out
23 a relationship he had with a 14-year-old girl that lasted
24 several years and which eventually Eisley tells his real age to
25 this girl and they continue to be in a relationship of sorts

1 for nine months after that apparently.

2 But these are the types of relationships he had with
3 multiple girls, yearlong relationships, constant interactions
4 where they're chatting every day engaged in the sexually
5 explicit conversations with him.

6 And that sets him apart from each of these other
7 defendants because they didn't do that. They didn't have these
8 long-lasting, one-on-one relationships with these girls the way
9 that Eisley did. And you're going to hear about other
10 defendants in the future, Your Honor, who were similar to
11 Eisley who carried on these relationships, but when we're
12 talking about the defendants who have been sentenced so far
13 today, Eisley stands apart.

14 These are the risk factors that the Sentencing
15 Commission has given. I'm not going to go over them again,
16 Your Honor, because I know I've gone over them before. But my
17 point here is just that all of these are present when it comes
18 to Noel Eisley's behavior.

19 And I want to wrap up now. I want to wrap up just by
20 talking about protection of the public. And so one of the
21 people that wrote a statement on Noel Eisley's behalf wrote
22 that "Eisley did physical, mindless jobs early on during the
23 summer. At 15 he painted the next-door neighbor's house. At
24 16 he washed dishes and scrubbed pots. And at 17 he dusted
25 books in the college library all summer until he left on a

1 National Science Foundation Programming in engineering." And
2 then we know, Your Honor, that he went on to Brown and then to
3 Princeton.

4 This sort of normal childhood is exactly what Noel
5 Eisley took away from the hundreds of girls that were this age
6 or younger when he targeted them. Now they have to live in
7 fear that an Internet predator's going to hunt them down. They
8 have to take time to miss school to deal with this offense.
9 They have to suffer from failing grades, and maybe they won't
10 be able to get into the Ivy League colleges that he was able to
11 get into because he had a supportive family and he didn't have
12 this type of thing happen to him when he was 14 years old.
13 They have to deal with knowing that images of them are out
14 there, and those images are of them in their most vulnerable
15 state and they will confront them wherever they go.

16 I'm glad that Noel Eisley did not have a bad
17 childhood, Your Honor, and I'm glad that he was able to go to
18 Brown and then Princeton to get a doctorate degree. I'm not
19 glad that he used his extreme intelligence and education to
20 hurt hundreds of innocent girls who may not ever have the
21 opportunities that he had thanks to what he did.

22 We would ask for 40 years.

23 THE COURT: Okay. Thank you very much.

24 All righty. The Court will state the sentence and
25 then I'll give the attorneys for both sides the opportunity to

1 object. This is the fourth sentencing that we've conducted
2 today and the most perplexing and most difficult. The
3 defendant does have a Ph.D. from Princeton University. He's
4 been employed. As Ms. Russo -- Ms. Russo mentioned, the
5 letters on his behalf are significant. Dr. Haynes' report was
6 complete. Lengthy, compelling letter from Mrs. Eisley. Mr. --
7 or Dr. Eisley's wife wraps up by saying he deserves to be
8 appropriately punished for his deeds but he also needs help.
9 That's exactly where we're at today.

10 I, like Ms. Raben, don't know and I can't comprehend
11 what would put an individual like this in a situation where he
12 committed crimes in a child exploitation enterprises and --
13 enterprise and faces a life sentence as he does. But -- but I
14 can assure myself I think that the drive of the addiction, the
15 fascination of the Internet, the -- you know, whatever it is of
16 the subject matter must take hold coupled with the weaknesses
17 and the deficit that the defendant encounters in a
18 psychological way that have been written up by the doctors.

19 I don't think Dr. Eisley should deserve to spend the
20 rest of his life in jail and I'd like to see him have some time
21 to do something productive after a lengthy prison term.

22 On the other hand, I don't see a great deal to vary
23 downward from what others have gotten or what others in other
24 cases have gotten. I think this is a -- a classic case where
25 an individual committed a serious crime who needs to be

1 incarcerated for the protection of the public and for the
2 deterrence of others from doing it while hopefully at the same
3 time he will examine the motivations that caused the behavior
4 and reflect upon the devastation that he talked about in his
5 allocution and hopefully do something where he can contribute
6 down the line.

7 So whereas I'm not willing to, and I don't think it's
8 appropriate for me to, write off Dr. Eisley, I think I also
9 have to impose a very significant punishment to reflect both
10 the -- the will of Congress, the will of the people of the
11 United States and -- and what I perceive to be an appropriate
12 penalty for the behavior that caused so much victimization that
13 we heard about today.

14 Therefore, pursuant to the Sentence Reform Act of
15 1984, the Court has considered the sentence guidelines and
16 factors in 18 USC, Section 3553(a) and will hereby commit Noel
17 Eisley to the custody of the Bureau of Prisons for a term of
18 420 months.

19 It's further recommended that the defendant be
20 designated to an institution with a comprehensive sexual
21 offender treatment program.

22 Upon release from imprisonment, the defendant shall
23 be placed on a supervised release term of ten years.

24 It's further ordered that the defendant pay a special
25 assessment of a hundred dollars and that'll be due immediately.

1 It's ordered that the defendant pay a Justice For
2 Victims of Trafficking Act assessment of five thousand dollars.

3 The Court's aware that the parties agreed to
4 restitution in the amount of \$5,000 per identified victim, and
5 I will waive any interest, penalties and fees on the
6 restitution amount, total amount being \$215,000 across all the
7 victims who are entitled to a payment.

8 No fine, no costs of incarceration, no costs of
9 supervision due to the defendant's lack of financial resources.

10 Mandatory participation in the Inmate Financial
11 Responsibility Program, the requirements of which I am aware
12 of, and I'll hereby approve the payment schedules of the
13 program and order the defendant's compliance.

14 A mandatory drug testing condition is suspended based
15 on my determination that the defendant poses a low risk of
16 future substance abuse.

17 While on supervision, the defendant shall abide by
18 the standard conditions adopted by the U.S. District Court for
19 the Eastern District of Michigan.

20 He must also comply with the following special
21 conditions which I'm going to summarize now. There's 19 of
22 them and I've gone through all of them in great detail
23 throughout the day. They'll be stated with specificity in the
24 Judgment and Commitment Order.

25 But essentially the special conditions of supervised

1 release will be compliance with the SORNA or registration as a
2 sex offender.

3 Completion of sex offender evaluations, treatment and
4 counseling.

5 Submission to periodic testing on supervised release
6 to ensure compliance with supervision and treatment.

7 No association with any minor children under the
8 age -- year of 18 without the -- age of 18 without the prior
9 approval of the probation officer.

10 Notification of anyone that Mr. Eisley dates or
11 marries with a minor child under the age of 18 of the
12 conviction.

13 No selling, viewing, purchasing, possession of any
14 pornography, sexually explicit material, child erotica and
15 things of that nature.

16 Employment pre-approved by the Probation Department.

17 Residences, pre-approved by the Probation Department.

18 And participation in the Computer/Internet Monitoring
19 Program that's run by the U.S. Probation Department.

20 Submission of person, residence, papers, what have
21 you, to search if the probation officer has reasonable cause to
22 think of the possession of contraband or things of that nature.

23 No contact, directly or indirectly, with any victim
24 or witness in the instant case.

25 Employment pre-approved by the Probation Department.

1 If it requires the use of a computer, then the employer has to
2 know about the nature of the conviction, and the notification
3 of that must be confirmed by the probation officer.

4 No possession or ownership of a camera or
5 photographic device without prior approval.

6 Given the mental health issues and the prior history
7 from 2014 which was written about in the Pre-Sentence Report,
8 we're going to order psychological and psychiatric evaluation,
9 participation in a program approved by the Probation Department
10 for mental health counseling, and taking all medications that
11 are prescribed in the dosages and at the times proposed.

12 Given the restitution order, no credit or additional
13 lines of credit.

14 Access of the probation officer to any requested
15 financial information.

16 Monthly installment payments on any remaining balance
17 of the fine.

18 And that will be it for the special conditions.

19 Are there any objections to the sentence that I just
20 stated, Ms. Russo?

21 MS. RUSSO: No, Your Honor. The restitution amount
22 for this defendant is 235,000, but I'm going to submit for each
23 defendant a stipulated order, Your Honor.

24 THE COURT: All right. Any objections to the
25 sentence from, Ms. Raben?

1 MS. RABEN: Yes, Your Honor. I believe the sentence
2 is excessive.

3 THE COURT: Okay.

4 MS. RABEN: And also I don't know if -- my client,
5 because he's from the East Coast --

6 THE COURT: Yes.

7 MS. RABEN: -- was interested in being housed at
8 Danbury or Otisville or Fort Dix.

9 THE COURT: Okay.

10 MS. RABEN: I don't know if either of those has a
11 SOTP Program.

12 THE COURT: Yes.

13 MS. RABEN: But could the judgment include those
14 three possible designations?

15 THE COURT: Potentially yes. If you're willing to
16 supply through e-mail or a piece of paper our case manager with
17 those facilities, we'll incorporate them. My first preference
18 is he gets sex treatment. Secondly, I'd recommend he be close
19 to his children and family. And if you can combine the two at
20 one of those facilities, I would strongly recommend that as
21 well.

22 MS. RABEN: Thank you.

23 THE COURT: Thank you.

24 So with all that in mind and after the objection of
25 counsel, I will nevertheless impose the sentence that I stated

1 previously.

2 The defendant, Mr. Eisley, has agreed to give up the
3 right to appeal his conviction as part of his plea. And in
4 addition, Dr. Eisley, you will waive the right to appeal your
5 sentence since I was below the applicable guideline range.

6 Those types of waivers are usually enforceable. If
7 you don't think yours is, you can take that up directly with
8 the Court of Appeals.

9 The defendant will be remanded to the custody of the
10 marshal to carry out the further sentence, serving of his
11 sentence.

12 Complete copies of the Pre-Sentence Report will be
13 sent to the Bureau of Prisons and the Sentencing Commission,
14 and any other copies are to be kept strictly confidential as
15 the lawyers know.

16 And I do want to commend both lawyers for their hard
17 work and expert representation in this case, and especially Ms.
18 Raben for her continued service to the Court for taking
19 appointments of this nature.

20 MS. RABEN: Your Honor, Mr. Eisley -- I'm retained.

21 THE COURT: Oh, you're retained. Okay. All right.

22 MS. RABEN: Yes.

23 THE COURT: Well, even better.

24 MS. RABEN: Thank you.

25 THE COURT: Okay. You did a great job.

1 Anything else?

2 MS. RUSSO: I'll move to dismiss at this time, Your
3 Honor, Counts 2 through 4. And that would be all from the
4 government.

5 THE COURT: Okay. All right. Thank you. We'll be
6 in recess now.

7 (Court in recess at 3:10 p.m.)

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C E R T I F I C A T I O N

I, Linda M. Cavanagh, Official Court Reporter of the United States District Court, Eastern District of Michigan, appointed pursuant to the provisions of Title 28, United States Code, Section 753, do hereby certify that the foregoing pages 1 through 184 comprise a full, true and correct transcript of the proceedings held in the matter of United States of America vs. D-1 Noel Eisley, D-2 Terry Kovac, D-4 Felipe Dominguez-Meija and D-6 Eric James Robinson, Case No. 17-20632, on Tuesday, July 17, 2018.

s/Linda M. Cavanagh
Linda M. Cavanagh, RDR, RMR, CRR, CRC
Federal Official Court Reporter
United States District Court
Eastern District of Michigan

Date: August 30, 2018
Detroit, Michigan